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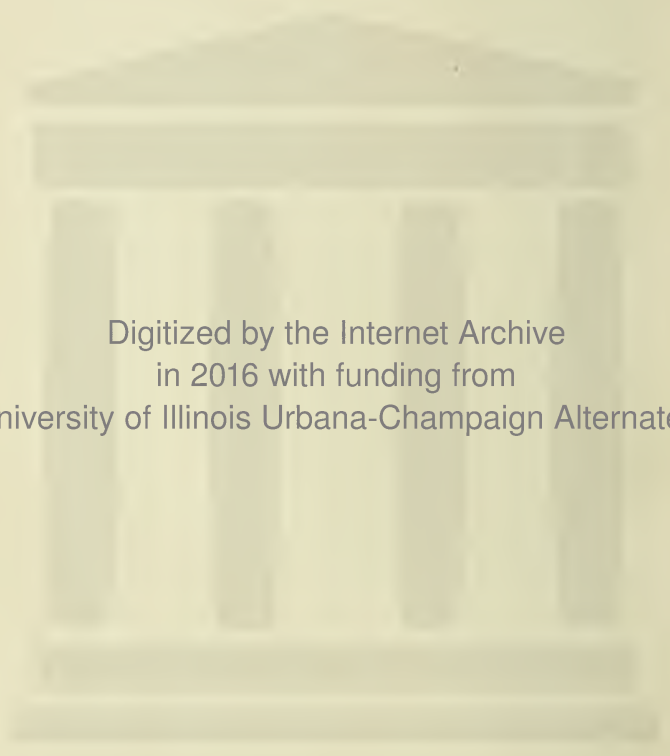
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OF THE

COMMONWEALTH OF MASSACHUSETTS

RELATING TO

Insurance and Insurance Companies,

EMBRACING ALL THE

GENERAL LAWS IN FORCE NOVEMBER 1, 1870:

WITH MARGINAL REFERENCES TO THE DECISIONS OF THE SUPREME
JUDICIAL COURT.

CONSOLIDATED AND ARRANGED IN 1867

BY JOHN E. SANFORD,

INSURANCE COMMISSIONER:

AND IN 1870, WITH ADDITIONS FROM SUBSEQUENT LEGISLATION,

BY JULIUS L. CLARKE,

INSURANCE COMMISSIONER.

BOSTON:

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NOTE.

The general laws of this Commonwealth relating to Insurance, enacted prior to the year 1860, were consolidated in the General Statutes, which took effect in that year. Since that time nearly fifty different Acts have been passed, modifying the law in many and important respects.

The partial editions of these supplemental insurance laws, being exhausted, it would have involved much less labor to collect and print in their consecutive order, as heretofore, the several Acts as they are found in the public statute books,—leaving the reader to ascertain the law as it now stands by a comparison of their separate provisions. This, if it does not involve some skill, is troublesome to practical business men. An attempt has therefore been made to digest into one text all the general insurance laws now in force.

Other provisions of the General Statutes, not found in the chapter (fifty-eight) specially devoted to Insurance Companies, but applying to them in common with other corporations, have also been incorporated. The same is true of the statutes since enacted.

It has been found necessary in many cases to change the phraseology of the consolidated Acts, by omitting formal and repeated words and obsolete provisions. A few verbal changes have also been made of purpose. For example, the word *foreign*, often inaptly applied, both in point of sense and spirit, to companies of other States, has been wholly disused, except in its appropriate connection with companies of other countries.

The purpose has been to present *the law* exactly as it now stands; and in order that the legal accuracy of the text may be easily tested, marginal references to the consolidated Acts are in all cases given.

For the convenience of those who desire the light thrown upon the statute law by interpretations of the Supreme Judicial Court, references to its decisions, as far as published, are also made in the margin.

One important object will have been gained, if those who are willing to violate the law can no longer plead ignorance of its provisions.

INSURANCE LAWS.

INSURANCE DEPARTMENT.—APPOINTMENT, POWERS AND DUTIES OF THE INSURANCE COMMISSIONER.

SECTION 1. The Governor, by and with the advice and consent of the Council, shall appoint some suitable person to be Insurance Commissioner, who shall, unless sooner removed by the Governor, hold his office for the term of three years from the date of his commission and until his successor is appointed and qualified.

Appoint-
ment.
G. S. 58, § 1.
1866, 255, § 1.

Term of
office.

SECTION 2. The Commissioner shall receive an annual salary of two thousand dollars. There shall also be allowed and paid out of the fees received from life insurance companies as compensation for the valuation of policies on lives, all the expenses incurred for actuarial and clerical assistance employed in making such valuation, and all the incidental and contingent expenses connected therewith. One-fifth of the amount received, if so much then remains unexpended, shall be allowed and paid for the actuarial services of the Commissioner: *provided*, that the amount so allowed and paid in any one year shall not exceed the sum of three thousand dollars.

Salary and
compensa-
tion.
G. S. 58, § 11.
1860, 178.
1862, 212, § 5
1, 2.
1866, 255, § 2.
1869, 434, § 2.
See sects. 9,
204, 205.

SECTION 3. The Commissioner may appoint a clerk, who shall receive an annual salary of two thousand dollars. The salaries of the Commissioner and of his clerk shall be paid monthly out of the treasury of the Commonwealth.

Clerk.

Salary.
1866, 255, § 2
1867, 167, § 3.
1867, 263, § 1.
1869, 434, § 1.

To visit and
examine In-
surance
Companies.
G. S. 58, § 2.

SECTION 4. The Commissioner shall visit and examine any insurance company incorporated in this State, when requested in writing by five or more persons, each of whom is a stockholder or creditor, or pecuniarily interested in such company; and also whenever he deems an examination necessary. At such times he shall have free access to its books and papers, and shall thoroughly inspect and examine all its affairs, and make inquiries such as are necessary to ascertain its condition and ability to fulfil its engagements, and whether it has complied with all the provisions of law applicable to its transactions.

May examine
agents and
their books.
G. S. 58, §§ 3,
74.

SECTION 5. He may at any time require the agents of any insurance company not incorporated by the legislature of this Commonwealth, to exhibit the books kept by them relating to such agencies, and to make answer in writing and under oath to all reasonable questions proposed by him, in order to elicit a full statement of the business done for the company represented by such agent. Any agent refusing or neglecting for thirty days to answer such interrogatories shall be deemed not to have complied with the provisions of the laws of this State; and if he continues to act as such agent, he shall be liable to a fine not exceeding one thousand dollars for each offence.

Penalty for
refusal to

May examine
directors,
officers, &c.
G. S. 58, § 5.

SECTION 6. He may summon and examine under oath, which he may administer, the directors, officers and agents of any insurance company, and such other persons as he thinks proper, in relation to the affairs, transactions and condition of such company. Whoever without justifiable cause refuses to appear and testify when so required, or obstructs the Commissioner in the discharge of his duty, shall for each offence be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year.

Penalty for
refusal to
testify, &c.

SECTION 7. When in his opinion an insurance company, its officers or agents, have violated any law of the State relative to such company, he shall forthwith report the facts, with such statements and remarks as he deems expedient, to the Secretary of the Commonwealth, and he shall give notice of the same to the Attorney-General, who shall at once prosecute said company, officer or agent therefor.

To report violations of law.
G. S. 58, § 8.

Attorney-General to prosecute.

SECTION 8. He shall annually in September furnish to the insurance companies in this State, and to the agents known to him of insurance companies not incorporated in this State and doing business therein, two or more printed copies of the forms of returns to be made by them.

To furnish forms for returns.
G. S. 58, § 7.

SECTION 9. Upon some day in each year, designated by him, he shall calculate the existing value of all outstanding policies of life insurance in companies authorized to make insurance on lives in this State.

To value life policies.
G. S. 55, § 4.
See sects. 2, 204, 205.

SECTION 10. He shall keep and preserve in a permanent form a full record of his proceedings, including a concise statement of the condition of each company visited or examined by him.

To keep record of his proceedings.
G. S. 58, § 9.

SECTION 11. He shall annually, at the earliest practicable date after the returns are received from the several insurance companies, make a report to the legislature of the general conduct and condition of the corporations visited by him since his last annual report, with such suggestions as he deems expedient, and shall include therein an aggregate of the calculated values of all outstanding policies of life insurance; and in connection therewith shall prepare an abstract of all the returns and statements made to him by insurance companies and agents. Such report shall be printed on or before the first Wednesday of January.

To make annual report.
Contents of.
G. S. 58, § 10.

SECTION 12. The Commissioner shall visit and examine every Loan and Fund Association incorporated in this State,

To visit and examine Loan Fund Corporations
G. S. 59, § 10

whenever requested in writing by five or more persons, each of whom is a stockholder or creditor, or pecuniarily interested in said association, and also whenever he deems it necessary; at which times he shall have free access to its books and papers, and shall thoroughly inspect and examine all its affairs, and make all inquiries necessary to ascertain its condition, its ability to fulfil all its engagements, and whether it has complied with all provisions of law applicable to its transactions. Upon such examinations the Commissioner shall have the powers and perform the duties which he has and performs in the examination of insurance companies.

To report condition of to legislature, and violations of law to Attorney-General. G.S. 59, § 11.

SECTION 13. The Commissioner shall annually, on or before the first Wednesday of January, submit to the legislature a report in print of the general conduct and condition of the several loan fund corporations, with such suggestions as he deems expedient; and if in his opinion any such corporation has violated any law relative to such associations, he shall forthwith present the facts to the Attorney-General, who may prosecute the association or its officers, as the case may be, for such violation.

To report receipts, &c., and give bond. 1867, 267, § 9.

SECTION 14. The Commissioner shall report annually to the legislature all the receipts and expenditures of his department, and shall give bond with sufficient sureties to be approved by the Treasurer in the sum of ten thousand dollars for the faithful discharge of all the duties of his office.

[*For other Powers and Duties of the Insurance Commissioner, see sections 62, 63, 65, 70, 72, 90, 99, 117, 168, 181, 211, 212, 214 and 215.*]

GENERAL PROVISIONS RELATING TO INSURANCE COMPANIES INCORPORATED IN THIS COMMONWEALTH.

[APPLICATIONS FOR ACTS OF INCORPORATION, OR FOR ALTERATION OR EXTENSION OF CHARTERS.]

SECTION 15. Persons intending to apply to the legislature for an act of incorporation, and corporations intending to apply for an alteration or extension of their charters, shall give notice of such intended application by an advertisement, at least four weeks immediately preceding the session at which the application is to be made, in some newspaper printed in the county where such corporations are, or are intended to be, established; such newspaper shall be designated by the petitioners and approved by the Secretary of the Commonwealth.

Notice to be given of petitions for charters or amendments thereof.
G. S. 2, § 10.

SECTION 16. The notice of an application for an act of incorporation shall specify the amount of capital stock required; and if the notice is for an alteration or extension of any charter already granted, it shall specifically state the same.

To specify capital or amendment asked for.
G. S. 2, § 11.

SECTION 17. Proof of the publication of the notice required in the preceding sections, may be made by the affidavit of the printer or publisher of the newspaper in which such publication is made; which affidavit and the petition to which it relates shall be presented to the general court within the first ten days of the session. The form of proof of publication of notice herein authorized shall not be construed to exclude any other equally satisfactory evidence thereof.

Proof of notice. Petition when to be presented.
G. S. 2, § 12.
1862, 91, § 3.

Unavoidable accident, &c., to entitle petitioners to 20 days' grace. 1862, 91, § 1.

SECTION 18. Whenever it appears upon satisfactory evidence under oath, that the notice required to be given by the fifteenth section was omitted to be given by reason of any unavoidable accident, without default on the part of the petitioner or applicant, or that the subject-matter of the petition or application did not admit of such previous notice, the notice shall be accounted sufficient, if given for the period of time therein named as soon as such omission was discovered by the petitioner or applicant, or within a reasonable time after such subject-matter arose or became known: *provided*, such petition or application is presented within thirty days after the first day of the assembling of the legislature.

Proviso.

Waiver or admission of notice. 1862, 91, § 2.

SECTION 19. Whenever any petition is presented within the period of thirty days after the assembling of the legislature, and it appears upon satisfactory proof that all the parties having rights or interests in the subject-matter thereof have waived notice, or have received satisfactory notice thereof, by writing signed by them, no other or further proof of notice shall be required.

[POWERS, DUTIES AND LIABILITIES OF INSURANCE COMPANIES.]

General powers, duties, &c. G. S. 58, § 12.

SECTION 20. Insurance companies incorporated in this State may exercise the powers and shall be subject to the duties and liabilities herein provided, so far as consistent with their respective charters.

To give notice of organization, &c. G. S. 58, § 13. 16 Mass. 94. 3 Met. 282. 5 Allen, 446.

SECTION 21. Every such company shall give notice in writing to the Secretary of the Commonwealth, of the acceptance of its charter and organization under the same within one year from the date thereof, or the same shall be void.

First meeting, how called. G. S. 58, § 13. 16 Mass. 94. 3 Met. 282. 5 Allen, 446.

SECTION 22. The first meeting of such companies hereafter organized shall be called by a notice signed by one or more of the persons named in the act of incorporation,

GENERAL PROVISIONS.

7

setting forth the time, place and purposes of the meeting, which shall be delivered to each member seven days at least before the meeting, or published in some newspaper of the county in which the company is established, or if there is no such paper, in some newspaper of an adjoining county.

SECTION 23. All matters proposed to be acted upon at any meeting of such companies shall be specified in the call for the same.

Call to specify proposed business.
G. S. 58 § 15
14 Gray, 440.

SECTION 24. When by reason of the death, absence or other legal impediment, of the officers of any such company, there is no person duly authorized to call or preside at a legal meeting, any justice of the peace in the county where the corporation is established may, on a written application of three or more of the members, issue a warrant to either of them, directing him to call a meeting by giving such notice as was previously required by law; and the justice may in the same warrant direct such person to preside at the meeting until a clerk is duly chosen and qualified, if no officer is present legally authorized to preside.

In case of disability of officers, justice may call meeting.
G. S. 68, § 5.
8 Cush 93.

SECTION 25. The corporation, when so assembled, may elect officers to fill all vacancies, and act upon such other business as may by law be transacted at a regular meeting.

May elect officers, &c., at such meeting.
G. S. 68, § 6.

SECTION 26. All such companies, where no other provision is specially made, may in their corporate name sue and be sued, appear, prosecute, and defend to final judgment and execution; have a common seal, which they may alter at pleasure; and elect, in such manner as they determine, all necessary officers, fix their compensation, and define their duties and obligations.

General powers. Seal.
G. S. 68, § 1.
10 Mass 91.
7 Met. 592.

SECTION 27. Such companies may adopt by-laws for conducting their business, not repugnant to their respective charters or the laws of the State, but no such company shall, by any condition, restriction, or stipulation, in its by-laws or

By-laws, Venue of actions. Limitation of suits
G. S. 58, § 16.
4 Met 212.
6 Gray, 174,
185, 596
7 Gray, 61.

policies, designate the county in which any suit shall be brought against the company, or limit the term of commencing such suit to a less period than two years from the time when the right thereto accrues.

By-laws.
G. S. 68, § 7.
1865, 236.
8 Met. 321.
See sects. 78,
101, 136, 151.

SECTION 28. Such companies may by their by-laws, where no other provision is specially made, determine the manner of calling and conducting their meetings; the number of members that shall constitute a quorum; the mode of voting by proxy; the mode of selling shares for the non-payment of assessments; and the tenure of office for the several officers.

Penalties for
breach of.

They may annex suitable penalties to such by-laws, not exceeding the sum of twenty dollars for one offence; but no by-law shall be made by a corporation repugnant to its charter, or the laws of the State.

Vice-presi-
dent, elec-
tion, powers
and duties
of.
1864, 113, §§
1, 2

SECTION 29. Any such company may, by its by-laws, provide for the election annually of a vice-president, who shall be sworn to the faithful performance of his duties before entering upon the discharge thereof. Policies, checks and other instruments, signed by the vice-president, shall have the same force and effect as if signed by the president or two directors. The vice-president shall perform such other duties as are prescribed by the by-laws or directors.

Secretary
and treasur-
er to give
bond.
G. S. 58, § 17.

SECTION 30. The secretary and treasurer of such companies shall give bond in such sum as is required by the directors, for the faithful discharge of their respective duties.

Directors to
furnish
statement of
their affairs.
G. S. 58, § 19.

SECTION 31. The directors of such companies shall, when required, furnish to the legislature, or to a committee thereof, or to the Insurance Commissioner, a statement of their affairs, signed by the president and secretary, and sworn by them to be correct according to their best knowledge and belief, and shall submit to an examination on oath concerning the same.

GENERAL PROVISIONS.

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SECTION 32. Investments of the funds of an insurance company shall be made in its corporate name; and funds of such companies as classify their risks, shall be kept and invested separately, so as to designate the assets belonging to each class.

Funds and investments, how kept and made. G. S. 58, § 20. See sect. 113.

SECTION 33. No member of a committee or officer of a mutual marine, mutual fire, or mutual life insurance company, charged with the duty of investing its funds, shall borrow the same, or be surety for such loans to others, or directly or indirectly be liable for money borrowed of the company.

Investing officers not to borrow. G. S. 58, § 21.

SECTION 34. The Treasurer of the Commonwealth in his official capacity shall take and hold on deposit the securities of any insurance company incorporated under the laws of this State, which are deposited by any such company for the purpose of complying with the laws of any other State in order to enable such company to commence business in such State. The company depositing such securities shall have the right to receive the income thereof, and at any time to exchange the same according to the laws of the States in which they are doing business.

Treasurer to hold securities in certain cases. Income and exchange of. G. S. 58, § 63.

SECTION 35. Every such company may convey lands to which it has a legal title.

May convey lands. G. S. 68, § 8.

SECTION 36. Mortgages on real estate, held by an insurance company, shall be liable to be attached and taken and sold on execution, in the manner provided in sections seventy-five, seventy-six and seventy-seven, of chapter fifty-seven of the General Statutes, in respect to mortgages held by banks. The secretary shall perform the duties therein required of cashiers and clerks.

Mortgages held by, may be sold on execution. G. S. 58, § 22.

SECTION 37. Such companies shall have their office in the city or town specified in their charter; and when they establish agencies in other cities or towns, all signs, cards, pam-

Where to have office. Cards, &c., to specify location. G. S. 58, § 18.

phlets and advertisements exhibited or issued by them, shall specify the city or town where the company they represent is located.

Policies not to be issued extending beyond term of charter. 1364, 277, §§ 1, 2.
See sect. 218.

SECTION 38. No insurance company incorporated in this Commonwealth shall issue any policy for a period extending beyond the time for which it was incorporated, unless its act of incorporation has been renewed, extended or continued, and then not exceeding the time of such renewal, extension or continuance. Any president, vice-president, director, secretary or other officer or agent of any insurance company, who issues or assents to the issuing of any policy contrary to the provisions of this section, shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars, and shall be liable in an action of tort to the holder of any such policy, for any damage he suffers or sustains by reason of the issuing of the same.

Penalty.

Remedy in equity for or against officers, &c.

G. S. 68, § 17.
93.

139, 1

SECTION 39. When the officers, stockholders or members of an insurance company, or any of them, are liable for any of its debts, or for their acts or omissions respecting its business, or when some of them are liable to contribute for money paid by others on account of such debts, acts or omissions, the party entitled may, instead of any remedy otherwise provided, maintain a suit in equity in the supreme judicial court.

To publish list of unclaimed dividends.
G. S. 68, § 19.

SECTION 40. Each insurance company in this State shall, once in every five years, publish in some newspaper in the city of Boston, and also in some newspaper, if there is any, in the county where the corporation is established, a list of all dividends and balances which have remained unclaimed for two years or more, with the names of the persons to whose credit the dividends or balances stand; which publication shall be continued in three successive papers.

SECTION 41. Nothing contained in the fifty-fifth chapter of the General Statutes relating to limited partnerships, shall authorize such partnerships to be formed for the purpose of banking or insurance.

Limited partnerships not to be formed for insurance. G. S. 55, § 1.

[TAXATION OF INSURANCE COMPANIES.]

SECTION 42. Insurance companies incorporated in this State shall be liable to be taxed by any general law taxing insurance companies.

Liable to taxation. G. S. 58, § 19.

SECTION 43. All fire, marine, and fire and marine insurance companies, incorporated under the laws of this Commonwealth, shall pay taxes to the Treasurer of the Commonwealth, as follows, to wit:—One per cent. per annum on all premiums received for insurance either in cash or in notes absolutely payable by any of such companies whether stock, mutual or mixed, and one per cent. on all assessments made by any mutual or mixed companies: *provided, however,* that such taxes shall not be computed upon premiums received for insurance in other States, which are subject to a like tax in the State where received.

Tax on premiums and assessments. 1862, 224, § 1. 1865, 288, § 18. See sect. 203.

Proviso. .

SECTION 44. The tax upon insurance companies provided for in the preceding section, shall be levied upon all premiums and assessments, after deducting therefrom unused balances on notes taken for premiums on open policies, all sums paid for return premiums on cancelled policies, and all sums actually paid to other insurance companies incorporated under the laws of this Commonwealth, or to the agents of foreign companies located in this Commonwealth, for re-insurance on risks, for which a tax on the premium would be due had no re-insurance been effected: *provided,* nothing in this section shall be so construed as to admit of dividends in scrip or otherwise, in stock, mutual or mixed companies, to be called return premiums.

Tax on premiums and assessments defined. 1868, 165, § 1.

Proviso.

Semi-annual
returns to
treasurer.
1862, 224, §§
6, 9.

SECTION 45. Every such insurance company shall semi-annually, on or before the second Mondays of May and November, make a return to the Treasurer of the Commonwealth, which shall be signed and sworn to by its president and secretary, and shall express the full amount of all premiums received for insurance by said company, either in cash or notes absolutely payable, and, if it be a mutual company, or have a mutual department, of all its assessments made, during the six months last preceding the first day of the month of May or November, in which said return is required.

Form of re-
turn defined.
1863, 165, §2.

SECTION 46. Insurance companies, in making their returns under the preceding section, shall state the full amounts of premiums and assessments received, and deduct therefrom the sums paid for re-insurance, return premiums, and unused balances provided for in section forty-four, and the tax shall be computed on the net amount thus actually received by said companies for the six months preceding the time of making up said return: *provided*, nothing in this section or in section forty-four shall be construed to repeal or modify the existing statute, which exempts insurance companies from paying a tax "upon premiums received for insurance in other States which are subject to a like tax in the State where received."

Proviso.
1863, 283.

Mass. Hosp.
Life Ins. Co.
to pay taxes.
1862, 224, §§
3, 4, 12.
1865, 283, §
13.
See sect. 203.

SECTION 47. The Massachusetts Hospital Life Insurance Company shall pay to the Treasurer of the Commonwealth upon all moneys and property in the possession or charge of said company as deposits, trust-funds, or for purposes of investment, at the time for which the return of said company, required by the following section, is made, the same rate* of tax as is imposed upon or paid by savings banks or institutions for saving on account of deposits. All property taxed

* Under existing laws, one-half of one per cent. per annum, payable, one-half of said tax semi-annually.

under this section shall be otherwise exempt from taxation for the current year in which the tax is paid.

^d SECTION 48. The Massachusetts Hospital Life Insurance Company shall semi-annually, on or before the second Mondays of May and November, make a return to the Treasurer of the Commonwealth which shall be signed and sworn to by a majority of its board of directors, and shall include the full amount of all moneys and property, in detail, in the possession or charge of said company as deposits, trust-funds, or for the purposes of investment, on the first day of May or November, in which said return is required.

To make returns.
1862, 224, §§ 7, 9.

SECTION 49. The taxes herein before provided for, shall be paid semi-annually within ten days after the first Mondays of June and December, each payment to be an assessment, by the treasurer, of one-half the annual percentage.

Taxes when to be paid.
1862, 224, § 5.
See sect. 208.

SECTION 50. Every corporation neglecting to make return as herein before required, shall forfeit fifty dollars for each day of such neglect; and any corporation that wilfully makes false statements in any such return shall be liable to pay a fine of not less than five hundred nor more than five thousand dollars.

Penalties for neglect to make returns, or false returns.
1862, 224, § 9.

[TAX ON CORPORATE SHARES OR FRANCHISE.]

SECTION 51. Every insurance company chartered by this Commonwealth, and having a capital stock divided into shares, shall annually, between the first and the tenth day of May, return to the Tax Commissioner,* under the oath of its treasurer, a complete list of its shareholders, with their places of residence, the number of shares belonging to each on the first day of May, the amount of the capital stock of the corporation, its place of business, the par value and the

Companies to return list of stockholders, &c.
1865, 283, § 3.

* The Treasurer of the Commonwealth is *ex officio* Tax Commissioner.

To return
real estate.

market value of the shares on said first day of May. Such return shall, in the case of stock held as collateral security state not only the name of the person holding the same, but also the name of the pledger and his residence. The return shall also contain a statement in detail of the real estate owned by such company, and subject to local taxation within the Commonwealth, and the location and value thereof. The company shall also return the amount, value and location of all real estate owned by it and subject to local taxation without the Commonwealth.

Tax Commis-
sioner to as-
certain value
of shares and
franchise.
1865, 283 § 4.

SECTION 52. The Tax Commissioner shall ascertain, from the returns or otherwise, the true market value of the shares of each such company, and shall estimate therefrom the fair cash valuation of all of said shares constituting the capital stock of such company on the first day of May next preceding, which shall be taken as the true value of its corporate franchise for the purposes of taxation.

And of real
estate.

He shall also ascertain and determine the value and amount of all real estate owned by each such company, and subject to local taxation, and to the deduction hereinafter provided; and for this purpose he may take the amount or value at which such real estate is assessed at the place where the same is located as the true amount or value; but such local assessment shall not be conclusive of the true amount or value thereof.

Amount of
tax, how de-
termined.
1865, 283, § 5.

SECTION 53. Every such company shall annually pay a tax upon its corporate franchise at a valuation thereof equal to the aggregate value of the shares in its capital stock, as determined in the preceding section, after making the deduction provided for in this section, at a rate determined by an apportionment of the whole amount of money to be raised by taxation upon property in the Commonwealth during the same current year, upon the aggregate valuation of all the

cities and towns in the Commonwealth for the preceding year: *provided*, that the amount of tax assessed upon polls Proviso. the preceding year, may be taken as the amount of poll-tax to be deducted from the whole amount to be raised by taxation, for the purpose of ascertaining the amount to be raised by taxation upon property. From the valuation, ascertained Deduction. and determined as aforesaid, there shall be deducted an amount equal to the value, as determined by the Tax Commissioner, of the real estate of such company subject to local taxation, wherever situated.

SECTION 54. In case the value of the real estate located within the Commonwealth, of any such company as determined by the Tax Commissioner, is less than the value as determined by the assessors of the city or town where such real estate or machinery is taxable, said Commissioner shall notify the company of such determination, and if said company does not, within one month from the date of such notice, make application to said assessors for an abatement, and does not, in case of the refusal of said assessors to grant an abatement, forthwith prosecute an appeal in accordance with the provisions of chapter eleven of the General Statutes, and give notice thereof to the Tax Commissioner, such determination shall be conclusive upon said company. The Tax Commissioner may appear before the county commissioners and be heard upon any appeal made to them, and the decision of the county commissioners shall be conclusive as to the value.

Valuation of real estate by Tax Commissioner conclusive, unless, &c. 1865, 283, § 6.

SECTION 55. The Tax Commissioner shall, as soon as may be after the first Monday in August, notify the treasurer of each such company of the amount of its tax, ascertained as aforesaid, to become due and payable to the Treasurer of the Commonwealth within thirty days from the date of such notice: *provided*, that it shall not be due and payable earlier Notice of amount of tax to be given. 1865, 283, § 11. When payable.

Right of ap- than the first day of November. Such notice shall also state
 peal. that within ten days after the date thereof, the company may
 apply for a correction of said tax, and be heard thereon be-
 fore the board of appeal hereinafter established.

Board of ap- SECTION 56. The Treasurer and Auditor, together with
 peal. one member of the Council to be named by the Governor,
 1865, 283, § shall constitute a board of appeal, to which board any party
 13. aggrieved by the decision of the Tax Commissioner upon
 any matter arising under the five preceding sections, may
 apply within ten days after notice of such decision. Upon
 Hearing and such appeal said board shall, as soon as may be, give a hear-
 decision. ing to such party, and shall thereupon decide the matter in
 question, which decision shall be final.

Officers and SECTION 57. Every such company shall, when required,
 books may submit its books to the inspection of the Tax Commissioner,
 be examined. and its treasurer and directors to examination on oath in re-
 1865, 283, § gard to all matters affecting the determinations which are to
 17. be made by said Commissioner.

Penalty for SECTION 58. Any such company neglecting to make re-
 neglect to turn according to the provisions of section fifty-one, or
 make re- refusing or neglecting, when required thereto, to submit to
 turns. the examinations provided for in the preceding section, shall
 1865, 283, § forfeit two per cent. upon the par value of its capital stock ;
 14. which penalty may be recovered by an action of tort, brought
 1866, 291, § 1. in the name of the Commonwealth, either in the county of
 Suffolk or in the county where the company is located. Any
 company failing to make said return shall also be liable, on
 application of the Tax Commissioner therefor to any of the
 justices of the supreme judicial court, to injunction restrain-
 ing said corporation and the agents thereof from the further
 prosecution of its business, until such return is made. If
 any such company fails to pay the tax required by section
 fifty-three, the Treasurer of the Commonwealth may forth-

Treasurer
 may sue for
 taxes.

with commence an action of contract in his own name, as treasurer, for the recovery of the same, with interest. Said penalty may also be enforced, and said tax may also be collected by information brought in the supreme judicial court at the relation of the Treasurer of the Commonwealth, and upon such information the court may issue an injunction restraining the further prosecution of the business of the company named therein, until all taxes due or penalties incurred as aforesaid are paid, with interest and costs.*

Further remedies.

SECTION 59. No taxes shall be assessed in any city or town for State, county or town purposes, upon the shares in the capital stock of such companies, for any year for which they pay the tax herein imposed; but nothing contained herein shall be construed to exempt the owners of shares in the capital stock of any such company from liability to taxation for school-district and parish purposes.

Shares exempt from local taxes, except, &c. 1865, 283, § 15. 1866, 196, § 1.

SECTION 60. The tax herein imposed upon any such company, shall not affect nor prevent the imposition and collection of any other tax now authorized, or that may hereafter be authorized, upon any especial privilege, franchise or business, enjoyed or exercised by such company.

Tax here imposed not to prevent other taxation. 1865, 283, § 18.

[*For other provisions in detail regarding the taxation of the corporate shares or franchise of Insurance Companies in common with other joint-stock corporations, see chapter 383 of the Acts of 1865, and chapter 52 of the Acts of 1867.*]

[ANNUAL STATEMENTS.]

SECTION 61. Every insurance company incorporated in this State shall, on or before the fifteenth day of January in each year, transmit to the Insurance Commissioner, and file

Companies to make and file annual statements G. S. 58, § 25. 1867, 267, §§ 2, 3. See sects 207-214

* Chapter 52 of the Acts of 1867 also authorizes the Treasurer to issue a warrant for the collection of such taxes, and limits the remedy of the company for the exaction of an alleged illegal tax, to petition to the supreme judicial court.

in his office, a statement of its business, standing and affairs, in the form prescribed or authorized by law, and adapted to the business done by such company, signed and sworn to by the president and secretary, and made out for the year ending on the preceding thirty-first day of December.

[INSOLVENT AND FRAUDULENT INSURANCE COMPANIES.]

Proceedings
against in-
solvent com-
panies.
G. S. 58, § 6.
1862, 131.

Injunction
may issue.

Receivers.
9 Allen, 329

SECTION 62. If upon examination the Commissioner is of opinion that a company is insolvent, or that its condition is such as to render its further proceedings hazardous to the public or to those holding its policies, he shall apply to a justice of the supreme judicial court to issue an injunction restraining such company, in whole or in part, from further proceeding with its business until after a full hearing can be had. It shall be discretionary with such justice either to issue said injunction forthwith, or to give previous notice to the company, and to cause a hearing to be had on complaint and answer or otherwise, as in ordinary proceedings in equity, before determining whether an injunction shall be issued. If issued forthwith, without such previous notice and hearing, he may, after a full hearing of all parties interested, dissolve or modify the same or make it perpetual. He may make such orders and decrees as may be needful to suspend, restrain or prohibit, the further continuance of the business of the company; and may appoint agents or receivers to take possession of the property and effects of the company, subject to such rules and orders as are from time to time according to the course of proceedings in equity prescribed by the court or a justice thereof in vacation.

[*For proceedings by and against Insolvent Companies in the Courts of Insolvency, see Gen. Sts., ch. 118, sections 113-124.*]

SECTION 63. Whenever upon examination the Commissioner is of opinion that any insurance company incorporated under the laws of this Commonwealth has exceeded its powers, or failed to comply with any of the rules, restrictions or conditions provided by law, he may apply to a justice of the supreme judicial court to issue an injunction restraining such company in whole or in part from further proceeding with its business until after a full hearing can be had; and the provisions of the preceding section are hereby extended to proceedings under this section.

Injunction
may issue for
violation of
law.
1862, 145, § 1.

[DISSOLUTION OF INSURANCE COMPANIES.]

SECTION 64. When a majority in number or interest of the members of an insurance company incorporated in this State desire to close its concerns, they may apply by petition to the supreme judicial court, setting forth in substance the grounds of their application, and the court, after due notice to all parties interested, may proceed to hear the matter, and for reasonable cause decree a dissolution of the corporation. Corporations so dissolved shall be deemed and held extinct in all respects as if their charters had expired by their own limitation.

May be dis-
solved on pe-
tition to S. J.
Court.
G. S. 68, § 35.
7 Gray, 119,
406.
9 Gray, 34.

SECTION 65. The charters of all fire insurance companies, which, either by the vote of their members, the neglect of their officers, or in obedience to injunctions from the supreme judicial court, have ceased, or hereafter cease, for the period of one year, to transact the business for which they were established, shall become extinct in all respects as if they had expired by their own limitation. The supreme judicial court shall have authority, upon the application of the Insurance Commissioner, or any person interested, to fix, by decree, the time within which such companies shall settle and close their concerns.

Suspension
of business
for one year
to annul
charter.
1863, 249, §§
1, 2.
7 Gray, 119.

To continue
for three
years, to
close con-
cerns.

G. S. 68, § 86.
16 Mass. 245.
1 Greenl. 79.

SECTION 66. Insurance companies whose charters expire by their own limitation, or are annulled by forfeiture or otherwise, shall nevertheless be continued bodies corporate for the term of three years after the time when they would have been so dissolved, for the purpose of prosecuting and defending suits by or against them, and of enabling them gradually to settle and close their concerns, to dispose of and convey their property, and to divide their capital stock; but not for the purpose of continuing the business for which they were established.

Receivers
may be ap-
pointed.

Powers and
duties of.
G. S. 68, § 87.
7 Met. 341,
595.

SECTION 67. When the charter of an insurance company expires or is annulled, or the corporation is dissolved as provided in section sixty-four, the supreme judicial court on application of a creditor, stockholder, or member, at any time within said three years, may appoint one or more persons to be receivers or trustees to take charge of its estate and effects, and collect the debts and property due and belonging to it, with power to prosecute and defend suits in the name of the corporation or otherwise, to appoint agents under them, and do all other acts, which might be done by such corporation if in being, that are necessary for the final settlement of the unfinished business of the corporation. The powers of such receivers may be continued as long as the court deems necessary for said purposes.

Equity juris-
diction of S.
J. Court.
G. S. 68, § 88.

SECTION 68. The court shall have jurisdiction in equity of the application and of all questions arising in the proceedings thereon; and may make such orders, injunctions, and decrees therein, as justice and equity require.

Receivers to
pay debts
and distri-
bute sur-
plus.

G. S. 68, § 89.
1 Gray, 387.
9 Allen, 329

SECTION 69. The receivers shall pay all debts due from the company, if the funds in their hands are sufficient therefor, and if not, they shall distribute the same ratably among the creditors who prove their debts in the manner directed by any order or decree of the court for that purpose. If

there is a balance remaining after the payment of the debts, the receivers shall distribute and pay it to and among those who are justly entitled thereto as having been stockholders or members of the company, or their legal representatives.

SECTION 70. All accounts rendered by receivers of insurance companies appointed as aforesaid to the supreme judicial court, shall be referred to the Insurance Commissioner, who shall carefully examine the same and report thereon to the court, and the court may make all such orders and decrees in the premises as to law and justice appertain.

Accounts of receivers to be referred to Commissioner. 1864, 308, § 3.

SECTION 71. Whenever in the opinion of the Commissioner, further efforts to collect an assessment will not afford substantial relief to creditors, he shall certify the fact to the supreme judicial court, which, after public notice and hearing of the parties interested, may order the receivers to make a final report.

S. J. Court may order final report on certificate of Commissioner. 1864, 308, § 2.

SECTION 72. Receivers of insurance companies shall report to the Insurance Commissioner annually, in such form as the Commissioner prescribes, on or before the fifteenth day of November, and as much oftener as he directs. Such reports, or abstracts therefrom, shall be incorporated into the annual report of the Commissioner to the legislature.

Receivers to report to Commissioner. 1864, 308, § 1.

SECTION 73. The compensation of the receivers and their expenses, other than costs of court, shall not exceed twenty-five per cent. of assessments collected and five per cent. of the proceeds of any assets of the company other than premium notes: *provided, however*, that in the case of receivers appointed prior to the fourteenth day of May in the year eighteen hundred and sixty-four, the amount of compensation to be allowed to them for services rendered prior to said date shall rest in the discretion of the supreme judicial court.

Compensation of receivers. 1864, 308, § 4.

Proviso.

[AMENDMENT OR REPEAL OF CHARTERS.]

SECTION 74. Every act of incorporation passed after the eleventh day of March in the year one thousand eight hundred and thirty-one, shall be subject to amendment, alteration or repeal, at the pleasure of the legislature ; but the corporation, notwithstanding such repeal, shall be subject to the provisions of sections sixty-six and sixty-seven ; and such amendment, alteration or repeal shall not take away or impair any other remedy which may exist by law consistently with those sections against the corporation, its members or officers, for any liability previously incurred.

Charters
granted after
March 11,
1831, may be
amended or
repealed.
G.S. 63, § 41.
6 Cush. 424.
4 Gray, 234.

JOINT STOCK INSURANCE COMPANIES.

SECTION 75. Every insurance company with a specific capital shall annually choose by ballot from the stockholders of the company resident within this State, not less than five directors, who shall hold office for one year and until others are chosen and qualified in their stead. Such directors when elected and notified shall, before they are qualified to act, declare their acceptance in writing to the secretary of the company.

Choice of directors.
To accept in writing.
G. S. 58, § 27.

SECTION 76. Not less than four directors shall constitute a quorum; and all questions shall be decided by a majority of those present. They shall choose annually, by ballot, a president,* secretary, and such other officers as the rules direct. Vacancies in any office may be filled by the directors or by a meeting of stockholders called for the purpose.

Quorum.
G. S. 58, §§ 27, 28.

To choose officers.

Vacancies.

SECTION 77. The president shall be chosen from the board of directors. He shall preside at all meetings of the stockholders and directors, but when absent a president *pro tempore* may be chosen as the meeting determines. The president and secretary shall annually be sworn.

Choice and duties of president
Oath of office.
G. S. 58, § 28.

SECTION 78. The shares of every insurance company organized after the tenth day of May, in the year eighteen hundred and sixty-seven, and having a capital stock divided into shares, shall be fixed at one hundred dollars each. Each share shall be entitled to one vote. Proxies may be authorized in writing. No officer shall vote as proxy, and no stockholder shall, either in person or by proxy, cast more

Par value of shares.
Votes.
Proxies. Record evidence of elections.
G. S. 58, § 27
1865, 236.
1867, 131.

* For the election, powers, and duties of Vice-President, see section 29, page 8.

than thirty votes. The record of the votes, whether cast in person or by proxy, made by the secretary or clerk of the company, shall be evidence of all such elections.

Executors,
&c., may
vote.
G S. 68. § 11.
9 Cush. 192.

SECTION 79. An executor, administrator, guardian or trustee, shall represent the shares or stock in his hands at all meetings of the corporation, and may vote as a stockholder.

Duties of
secretary.
G. S. 58 § 28.
10 Mass. 476.
8 Pick. 90.

SECTION 80. The secretary shall keep a record of the votes of the stockholders and of the directors; a list of the stockholders and number of shares standing in the name of each; a record of all transfers of shares; of all policies issued by the company, and of all assignments and transfers thereof; and such additional books as the president and directors require.

Company to
register
names, &c.,
of stockhold-
ers
1864. 201. § 1.

SECTION 81. Every such company shall register the names and residences of all its stockholders, and all changes therein of which it is notified; shall issue no certificate of stock to a stockholder, or purchaser of a share, until he informs the corporation of his actual place of residence; and shall pay no dividend to a stockholder whose actual place of residence is unknown, or has become uncertain, until he informs the corporation thereof.

List open to
inspection.
G. S. 68, § 10.

SECTION 82. The list of stockholders shall at all times, upon written application by any stockholder, be exhibited for his inspection. If the officer keeping such list refuses so to exhibit the same, he shall forfeit fifty dollars for each offence.

Penalty.

Record of
transfers to
be kept in
this State.
G S. 68. § 12.
8 Pick. 90.

SECTION 83. All records of transfers of stock in companies incorporated by the sole authority of this State, shall be made and kept within the State. The officer of every company whose duty it is to record such transfers, shall, at the time of his appointment, be a resident within the State; and when he ceases to be a resident the office shall become vacant.

SECTION 84. In transfers of stock as collateral security, the debt or duty which such transfer is intended to secure, shall be substantially described in the deed or instrument of transfer. A certificate of stock issued to a pledgee or holder of such collateral security, shall express on the face of it that the same is so holden; and the name of the pledger shall be stated therein, who alone shall be responsible as a stockholder.

Transfers as collateral, form of. G. S. 68, § 13. 9 Cush. 192.

SECTION 85. The treasurer, cashier or other officer who has the lawful custody of the records of transfers of shares, upon the written request of a creditor of the general owner of stock pledged or transferred, shall exhibit to him the record of such transfer; and in case of refusal and of loss to the creditor by reason thereof, the corporation shall be liable for the amount of the loss.

Record of transfers to be exhibited to creditors. G. S. 68, § 14. 9 Cush. 192.

SECTION 86. Persons holding stock in a corporation as executors, administrators, guardians or trustees, shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward or person interested in the trust fund, would be if they were respectively living and competent to act and held the stock in their own names.

Executors, &c., not liable as stockholders. G. S. 68, § 18. 9 Cush. 192.

SECTION 87. Special meetings of the stockholders may be called by the directors when they think proper; and they shall call such meetings on the written application of the owners of one-fifth part of the capital, or of twenty stockholders, setting forth the purposes of the meeting.

Special meetings, how called. G. S. 58, § 29. 8 Gray, 27, 217. 14 Gray, 440.

SECTION 88. At each annual meeting the directors shall cause to be furnished to the stockholders a statement of the condition of the company, and in making dividends shall not consider any part of the premium money divisible until the risks for which the same was paid have absolutely been ter-

Directors to make annual statement to stockholders. Basis of dividends. G. S. 58, § 34.

minated. But in making up their annual statement they shall be required to charge the company only such portions of the cash or notes received on policies which are unexpired, as would be required to re-insure all outstanding risks.

Capital stock when and how paid in. Certificates and policies not to issue until, &c. G. S. 58, § 30. G. S. 68, § 9. See sect. 137.

SECTION 89. The capital stock, unless otherwise specially provided, shall be paid in cash within twelve months from the date of the charter. No certificates of full shares or policies shall be issued until the whole capital is paid in; nor, unless specially authorized, shall any shares be issued for a less amount to be actually paid in on each share, than the par value of the shares first issued.

Policies not to issue until certificate of Commissioner is obtained. Examination of capital. Oath of directors. Fee. G. S. 58, § 30. 1867, 267, § 4. See sect. 137.

SECTION 90. No policy shall be issued until a certificate from the Insurance Commissioner has been obtained authorizing such company to issue policies. The Insurance Commissioner shall examine the capital, and a majority of the directors shall make oath that the money has been paid in by the stockholders towards payment of their respective shares, and not for any other purpose, and that it is intended that the same shall remain as the capital of the company, to be invested as required by the laws of this Commonwealth. Every insurance company incorporated in this Commonwealth shall pay into the treasury, for the examination required by this section, the sum of thirty dollars.

[INVESTMENT OF CAPITAL.]

Capital stock how to be invested. G. S. 58, § 31. See sect. 32.

SECTION 91. The capital stock shall be invested in the stocks of the United States, or of this State, or of any city or town in this State, or in any of the banks thereof, or in any railroads thereof which are completed and paid for and the franchises of which are not pledged or mortgaged, or in bonds of railroad corporations in this State; or it may be loaned on mortgages of real estate therein, or on pledges of

any of the stocks or bonds named in this section : *provided*, that no insurance company shall own more than one-fourth of the capital of any one bank, nor invest in nor loan on the stocks and bonds both included of any one railroad company, more than one-tenth of its own capital, nor in the aggregate shall the investment in and loan on all railroad property exceed one-fifth of its capital. Not more than half of its capital shall be loaned on mortgage of real estate, and not more than one-tenth part of the capital actually existing of any company shall be invested in a single mortgage.

SECTION 92. Insurance companies may make investment of their capital and other funds in the stock of any banking association located in this Commonwealth and organized under the provisions of an act of congress entitled "An Act to provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved on the twenty-fifth day of February, in the year eighteen hundred and sixty-three : *provided*, *however*, that no insurance company shall own or hold as collateral security more than one-fourth of the capital of any one of such banking associations. Any insurance company which makes any investment in the stock of any banking association, as authorized by this section, shall continue subject to all the limitations and restrictions contained in the preceding section, except as herein otherwise provided.

SECTION 93. If any investment or loan is made in a manner not authorized by law, the directors making or authorizing the same shall be personally liable to the stockholders for any loss occasioned thereby ; but insurance companies chartered by this State now doing business, shall not be compelled to change any investment that was originally legally made.

May be invested in stocks of national banks. 1864, 29, §§ 1, 2.

Directors liable for unauthorized investments. G. S. 58, § 31. See sect. 39.

[RISKS AND POLICIES.]

May insure
fire and ma-
rine risks.
G. S. 58, § 32.

SECTION 94. Companies thus organized may insure vessels, freights, goods, money, effects, and money lent on bottomry or respondentia, against the perils of the sea and other perils usually insured against by marine insurance; and dwelling-houses and other buildings, merchandise and other personal property, against loss by fire, according to their respective charters.

Policies, how
executed.
G. S. 58, § 32.
1864, 113, § 2.
See sects.
217, 218.

SECTION 95. All policies shall be signed by the president and secretary; or in the absence of the president by two directors, and in the absence of the secretary by a secretary *pro tempore*. Policies signed by the vice-president shall have the same force and effect as if signed by the president or two directors.

Limitation
of risks.
Liability of
directors.
G. S. 58, § 32.
32, 33.
See sects.
132, 142.

SECTION 96. No stock company shall hold, on any one risk, a sum exceeding one-tenth part of the capital existing, and surplus, after deducting all losses, claims, liabilities and debts due from the company. When the capital has been reduced by losses, or from any other cause, the amount thereafter to be taken on any one risk shall correspondingly be reduced to the limitation herein prescribed. If the directors allow more to be insured on any one risk, they shall be liable for a loss on any amount exceeding one-tenth the existing capital.

Insurance
and divi-
dends, when
not to be
made. Lia-
bility of offi-
cers and
stockhold-
ers.
G. S. 58, § 33.
10 Gray, 325.
12 Gray, 355.
See sects. 39,
143.

SECTION 97. If any company is under liability for losses actually sustained equal to the capital, and the president and directors knowing it make insurance or assent thereto, they shall be personally liable for the loss if any under such insurance. When the charter permits the capital stock to be paid by instalments, if the capital is lessened by losses before all instalments are paid in, each stockholder shall be liable for the instalments unpaid on his shares at the time

of such loss ; and no dividend shall be made until the capital is restored to its original amount.

[IMPAIRMENT OF CAPITAL.]

SECTION 98. Whenever, after setting aside a sum equal to the premiums for the unexpired term on existing risks, the cash assets of any fire insurance company with a specific capital do not amount to more than three-fourths of its original capital, the company shall, by assessing the stock for the difference, repair its capital to the original amount. Shares on which such assessment is not paid within sixty days after demand upon the owner thereof, shall be forfeitable and subject to be cancelled by a vote of the directors, and new shares may be issued to make up the deficiency.

When capital is reduced, stock to be assessed.
1863, 249, §§ 7, 8.
See sects. 193, 215.

SECTION 99. Any insurance company with a specific capital which does not, within three months after receiving notice from the Insurance Commissioner that its capital is legally subject to repair as aforesaid, satisfy him that it has been fully restored to its original amount, with a reserve of premium sufficient to re-insure all outstanding risks, shall be proceeded against according to the provisions of section sixty-two.

If capital is not repaired after notice, Commissioner to proceed against company.
1863, 249, §§ 6, 9.

MUTUAL FIRE INSURANCE COMPANIES.

Directors,
election and
term of
office.
G. S. 58, § 43.
1862. 181, § 5.
14 Gray, 440.

SECTION 100. Every mutual fire insurance company shall annually elect by ballot not less than seven directors, citizens of this State, and, after the first election, members of the company, who shall manage and conduct the business thereof. No director in any mutual fire insurance company shall cease to be such during the year for which he was elected, on account of the cancelling of any policy held by him.

Members.
Annual
meetings.
Votes.
G. S. 58, § 43.
1870. 349, § 7.
2 Gray, 543.

SECTION 101. Every person insured by a mutual fire insurance company shall be a member of the company, and shall be notified of the time and place of holding the annual meetings of said companies by a written notice or by an imprint upon the back of each policy, receipt or certificate of renewal, in the following form, to wit: "By virtue of this policy the assured is hereby notified that he is a member of the

Insurance Company, and that the annual meetings of said company are holden at its home office on the day of in each year, at o'clock, ."

The blanks shall be duly filled in making the aforesaid imprint, and the same shall be deemed a sufficient notice as herein provided. No one member shall be allowed more than five votes in person. Members may vote by proxies dated and executed within six months and returned and recorded on the books of the company three days previously to the meeting of the company at which the same are used, but no person shall be allowed by proxy or otherwise to cast more than twenty votes; and no paid officer shall vote as proxy for any absent member.

Proxies.

SECTION 102. The directors of every corporation which becomes a member of any mutual company, may authorize one or more of the stockholders of such corporation to represent the same in all meetings of such company; and such representatives shall vote and be eligible to the office of director in the company.

Corporations
how repre-
sented.
G.S. 58, § 47.

SECTION 103. The directors of every such company shall annually choose by ballot one of their number as president,* a secretary and treasurer, who shall annually be sworn, and a record of the oath shall be entered upon the books of the company.

Directors to
choose presi-
dent, &c.
Oath of
office.
G.S. 58, § 44.

SECTION 104. Not less than five directors shall constitute a quorum, and all questions shall be decided by a majority of those present. Vacancies in any office may be filled by the directors until the next annual election, or by a new election at a meeting called for that purpose. Special meetings of the members may be called when ordered by the directors, and the directors shall call such meetings when requested in writing so to do by any twenty members.

Quorum of
directors.
Vacancies.
Special meet-
ings.
G.S. 58, § 45.
14 Gray, 440.
8 Allen, 27,
217.

SECTION 105. The secretary shall keep true records of the meetings of the corporation and of the directors, and of all votes passed by them; and record a copy of all policies issued by such company, and all assignments or transfers of the same, when properly assented to, which record shall be open to the inspection of any persons interested therein.

Secretary to
keep records.
G. S. 58, § 44.

SECTION 106. No policy shall be issued by a mutual fire insurance company incorporated subsequently to the twenty-seventh day of March, in the year eighteen hundred and fifty-eight, until the sum of two hundred and fifty thousand dollars has been subscribed to be insured and entered on the books of the company. The policies issued and the deposit

\$250,000 to
be sub-
scribed be-
fore policies
are issued.
G. S. 58, § 58.

* For the election, powers and duties of Vice-President, see section 29, page 8.

notes given for said insurance, which notes shall not exceed double the amount paid as cash premium, shall be of the same date.

Where may
insure.
G.S. 58, § 57.

SECTION 107. Mutual fire insurance companies incorporated in this State previously to the third day of July, in the year eighteen hundred and fifty-six, may issue policies on any property included in the terms of their charters, situated in the New England States and the State of New York; but such companies incorporated after that date shall not insure property situated without the limits of this State.

Single risks
limited.
G. S. 58, § 55.

SECTION 108. No mutual fire insurance company shall contract for insurance on any one risk for a greater amount than they intend to retain; nor with the view or intention of re-insuring any part thereof.

Risks limited
to three-
fourths of
value.
G. S. 58, § 52.
4 Met. 206.
10 Met. 211.
See sects.
217, 218.

SECTION 109. No policy shall be issued on the mutual plan for a greater amount than three-fourths of the value of the property insured.

Certain poli-
cies to create
a lien.
G. S. 58, § 52.
1862. 181, § 4.
6 Cush. 448.
12 Gray, 114.

SECTION 110. Every policy issued by a mutual fire insurance company previously to the thirtieth day of April, in the year eighteen hundred and sixty-two, shall create a lien* on the personal property, and on any building insured and the land under the same, for securing the payment of the deposit note, or other liabilities, or any sums assessed upon the same: *provided*, that the extent of the liability and the intention of the company to rely upon the lien are set forth on the face of the policy. Upon the alienation of the property to a *bona fide* purchaser, the lien shall cease as to all losses which thereafter occur, unless the policy is continued by consent of the purchaser and the company. If it becomes necessary to resort to such lien for the payment of the liabilities secured thereby, the treasurer shall demand payment

Proviso.

Proceedings
to enforce
lien.

* The lien is abolished, as regards all policies issued on or after said date, by chapter 181, section 4, of the Acts of 1862.

from the insured, and also from the tenant in possession, or the person having possession of the personal property, setting forth in writing the sum due; and in case of non-payment, the company may sue and levy the execution upon the property or estate. The officer making the levy may sell the whole or any part thereof by auction, and apply the proceeds in the same manner, and the owner shall have the same right to redeem as in the sale of an equity of redemption of real estate.

SECTION 111. A person holding property in trust may effect insurance on such property in any mutual fire insurance company incorporated in this State, and for that purpose may, as such trustee, assume the liabilities and create all the liens upon the property so insured which other persons, on becoming members of such insurance companies, assume and create. He shall not be liable, in his individual capacity, upon such contract of insurance.

Trustees
may insure
and create
liens.
Liabilities of.
G. S. 59, § 59.

SECTION 112. Every member of a mutual company shall, at the expiration of his policy, have a share in the profits of the company during the time his policy was in force, in proportion to the sums by him paid on account of said policy according to the contract or policy, after all expenses, losses and liabilities then incurred, including a sum sufficient to re-insure all outstanding risks, have been deducted. And he shall, in like manner, be subject to pay any assessments which may be laid by such company for the payment of losses and expenses, in accordance with its charter and the laws regulating such companies.

Members to
share profits,
and contrib-
ute to pay
losses.
G. S. 59, § 51.
1863, 249, § 6.

SECTION 113. The directors of mutual fire insurance companies may divide the property insured into not exceeding four classes. The policy shall designate the class, and the assessments shall be made upon premiums and deposits belonging to the class in which the loss occurs; but no pol-

Classification
of risks.
Policies, as-
sessments,
expenses and
dividends,
how to be
made and
apportioned.
G. S. 59, § 53.
7 Gray, 267.

14 Gray, 459.
8 Allen, 217.
See sects.
32, 114, 115.

icy shall be issued in a separate class, until five hundred thousand dollars are subscribed to be insured in that class on one date, and the same is entered on the books of the company. The expenses of the company not strictly applicable to either class, shall be apportioned to each class according to the amount of premiums paid by that class for the same period; and in a division of the funds and returns of premiums and deposits, each member shall be entitled to receive his proportion of the profits belonging to the class in which he was insured. No money belonging to one class, received either as premium or assessment in said class, shall be used to pay losses or expenses or other liability of any other class.

[ASSESSMENTS.]

When and
how to be
laid.
G. S. 58, § 48.
9 Cush. 140.
12 Cush. 64.
2 Gray, 279.
3 Gray, 208,
210.
6 Gray, 77,
288.
7 Gray, 267.
10 Gray, 297.
12 Gray, 165.
14 Gray, 440.
5 Allen, 446.
7 Allen, 235.
8 Allen, 27,
217.
9 Allen, 319,
483.
10 Allen, 110.
Record and
statement
to be made
and record-
ed.
To be open
to inspec-
tion.
G. S. 58, § 54.
8 Allen, 27.
10 Allen, 110.

SECTION 114. When the just claims against a mutual fire insurance company exceed the funds, its directors shall assess such sums as may be necessary upon the members, in proportion to their premium and deposit, no member being liable to pay, in addition to his premium and deposit, more than a sum equal to his said premium and deposit; and in case of classification of risks, said assessment shall be made upon such premium and deposit as were given upon hazards associated with the property upon which losses have occurred.

SECTION 115. Mutual fire insurance companies, upon making an assessment, shall keep a record of the vote passed by the directors for making the same, with a statement of the condition of the company at the time such assessment is made. When an assessment is ordered, the whole amount to be raised and the particular losses or other liabilities of which said amount consists shall be stated. The statement shall separately show the amount of cash on hand, of deposit notes, and of liabilities subject to such assessment, and it shall be recorded in a book kept for that purpose, and signed

by the directors voting for such assessment. Companies See sect. 113.
dividing their risk and insuring in separate classes shall
make such statement for each class in which an assessment
is ordered. Any member of the company may inspect such
statement and take a copy of the same; and a person who
is liable to assessment shall be considered a member. No
assessment shall be collected until such statement and record
are made.

SECTION 116. Whenever the directors of any mutual fire
insurance company find that its funds, other than premium
notes, are not equal to the cash premium on the unexpired
term of the existing risks, and that the company is in dan-
ger of becoming insolvent, instead of the assessment or call
herein before provided, they may make two assessments, the
first determining what each policy-holder must equitably pay
or receive in case of withdrawal from the company and hav-
ing his policy cancelled, the second what further sum each
must pay in order to re-insure the unexpired term of his pol-
icy at the same rate as the whole was insured at first. Each
policy-holder shall pay or receive according to the first assess-
ment, and his policy shall then be cancelled unless he pre-
fers to pay the further sum determined by the second assess-
ment, in which case his policy shall continue in force: *pro-*
vided, that in neither case shall any policy-holder receive or
have credited to him more than he would have received on
having his policy cancelled by vote of the directors, under
the by-laws of the company.

Instead of
foregoing as-
sessment, di-
rectors may
make in cer-
tain cases
two assess-
ments, one
compulsory,
the other op-
tional.
Unless latter
paid, policy
to be can-
celled.
1863, 249, § 4.
9 Cush. 140.
12 Cush. 64.
2 Gray, 279.
3 Gray, 208,
210.
6 Gray, 77,
288.
7 Gray, 267.
10 Gray, 297.
12 Gray, 165.
14 Gray, 440.
5 Allen, 446.
7 Allen, 235.
8 Allen, 27,
217.
9 Allen. 319,
483.
10 Allen, 110.
11 Allen, 574.
Proviso.

SECTION 117. Whenever the directors in any mutual fire
insurance company make an assessment or call on its mem-
bers for money under the provisions of the preceding sec-
tion,* or by vote determine that there exists a necessity for

The S. J.
Court may
examine
such assess-
ments, or or-
der one to
be made.
1862, 181, § 1.
1863, 249, § 5.

* Sections 117 to 122, inclusive, do not apply to an assessment made
under the provisions of section 114. (Acts of 1864, 161, § 2.)

1864, 161, § 2.
11 Allen, 574.
Where and
by whom ap-
plication
may be
made.

Proviso.

3 Gray, 210.

Directors to
file state-
ment.

Notice and
proceedings
on the peti-
tion.
1862, 181, § 2.
11 Allen, 574.

Auditor to
be appoint-
ed.
To notify
and hear all
parties, and
report.
1862, 181, § 2.
1863, 249, §§
3, 5.
11 Allen, 574

such assessment or call, they, or any person interested in the company as an officer, policy-holder or creditor, may apply to the supreme judicial court for any county, by a petition in the nature of a bill in equity, praying the court to examine said assessment or call, the necessity therefor, and all matters connected therewith, and to ratify, amend or annul the assessment or call, or to order that the same be made, as law and justice may require: *provided*, such application when made by any party except the corporation, or a receiver, or the Insurance Commissioner, shall rest in the discretion of the court. Whenever the directors unreasonably neglect to make an assessment or call to satisfy an admitted or ascertained claim upon the company, any judgment creditor, or any person holding such admitted or ascertained claim, or the Insurance Commissioner, may make the application to the court. Upon such application, if made by the directors, or upon any order of the court, if made by application of any other party, the directors shall set forth the claims against the company, its assets and all other facts and particulars appertaining to the matter.

SECTION 118. The court before which such petition is filed shall order notice to be given to all parties interested by publication or otherwise, and upon the return thereof shall proceed to examine the assessment or call, or the necessity therefor, and all matters connected therewith. Any parties interested may appear and be heard thereon. All questions that arise shall be heard and determined as in other equity cases.

SECTION 119. The application shall be referred to an auditor, who shall appoint a time and place to hear all parties interested in the assessment or call, and shall give personal notice thereof, in writing, to the Insurance Commissioner, and through the post-office, so far as he is able,

to all persons liable upon said assessment or call. The auditor shall hear the parties, and report upon the correctness of the assessment or call, and all matters connected therewith. The court may refer the apportionment or calculation to any competent person; and upon the examination may ratify, amend or annul the assessment or call, or order one to be made; and may make such orders and decrees in the premises as under all the circumstances justice and equity require. In case the assessment or call is altered or amended, or one is ordered to be made, the directors shall forthwith proceed to vote the same in legal form, and the record of such vote shall be set forth in a supplemental bill or answer.

Further proceedings.

SECTION 120. When an assessment or call has been, as above provided, ratified, ascertained or established, a decree shall be entered which shall be final and conclusive upon the company and all parties liable to the assessment or call, as to the necessity of the same, the authority of the company to make or collect the same, the amount thereof, and all formalities connected therewith. And where an assessment or call hereafter made is altered or amended by vote of directors, and decree of the court thereon, such amended or altered assessment or call shall be binding upon all parties who would have been liable under it as originally made, and in all legal proceedings shall be held to be such original assessment or call. All proceedings above provided for shall be at the cost of the company, unless the court for cause otherwise order; and in all cases the court may control the disposition of the funds collected under these proceedings.

Decree to be entered by the court.
Effect of.
1862, 181, § 3.
11 Allen, 574.

Costs.

SECTION 121. If it appears to the presiding judge of the court before which such application is pending, that the net proceeds of any assessments or call will not be sufficient to

Court may prohibit or stay collection of the assessments.
1863, 249, § 3.
11 Allen, 574.

furnish substantial relief to those having claims against the company, the judge may decree that no assessment shall be collected ; and when, upon the application of the Insurance Commissioner or any person interested, the judge is of opinion that further attempts to collect any assessment then partially collected will not benefit those having claims against the company, he may stay the further collection of said assessment.

If both assessments are not paid, &c., company to wind up its affairs. 1863, 249, § 4. 11 Allen, 574.

SECTION 122. If, within two months after the assessments have become collectable, the amount of the policies whose holders have settled for both assessments does not equal the amount required by the charter of the company for the commencement of business, and in no case less than two hundred and fifty thousand dollars, the company shall cease to issue policies ; and all policies whose holders have not settled for both assessments shall then be void, and the company shall continue only for the purpose of adjusting the deficiency or excess of premiums among the members and settling outstanding claims.

Limitation of assessment. G.S. 58, § 54. 1865, 10. 6 Gray, 288. 2 Allen, 82. 11 Allen, 576.

SECTION 123. No assessment shall be laid on any member whose policy has expired or been cancelled for the period of two years ; and no assessment shall be valid against any person who has not been duly notified thereof in writing, within two years after the expiration or cancellation of his policy.

S. J. Court may stay collection of any assessment. 1864, 161, § 1.

SECTION 124. Whenever it appears to the supreme judicial court, upon a petition in the nature of a bill in equity, by any member of a mutual fire insurance company, or by the Insurance Commissioner, that further attempts to collect any assessment then partially collected, will not furnish substantial relief to those having claims against the company, the court may stay the further collection of said assessment.

SECTION 125. Any officer or director of a mutual fire insurance company, who either officially or privately gives a guaranty to any policy-holder thereof against an assessment to which he would otherwise be liable, shall be punishable with a fine not exceeding one hundred dollars for each offence.

Guaranty
against as-
sessment
prohibited.
1860, 149.

Penalty.

SECTION 126. If a mutual fire insurance company is owing for money borrowed to pay losses or expenses, or is owing for losses or expenses which it cannot pay otherwise than by borrowing money, and the directors neglect or omit, for the space of six months after such losses or expenses became due and payable, to lay and collect with all practicable diligence an assessment which, with other cash funds on hand, if any, is sufficient to discharge all the existing indebtedness of the company, they shall be personally liable for all debts and claims then outstanding against the company, and for all thereafter accruing, until an assessment is laid and put in process of collection, as aforesaid.

If unable to
pay losses
without bor-
rowing, di-
rectors liable
for debts un-
less they lay
assessments
within six
months of
loss.
1868, 317, § 2.

SECTION 127. When sufficient property of a mutual fire insurance company cannot be found to satisfy an execution issued against it, and it has property belonging to the period assessed, the proceeds of which can be applied to satisfy such execution, if the directors neglect to pay the same, or neglect for thirty days after the rendition of judgment to make an assessment and deliver the same to the treasurer for collection, or to apply such assessment when collected to the payment of the execution, they shall be personally liable for the amount of the execution.

Liability of
directors for
neglect to
satisfy judg-
ment or as-
sess therefor.
G.S. 58, § 48.
9 Cush. 140.
3 Gray, 210.
See sect. 39.

SECTION 128. When the directors of a mutual company are liable to pay an execution against the company, the creditor may recover the same by a suit in equity or by an action at law against the directors. Any director who pays an execution against the company for which he is personally

Remedy of
creditor.
Of directors
for contribu-
tion, &c.
G.S. 58, § 50.
10 Gray, 325.
See sect. 39.

liable, may have a suit at law with equitable remedies for contribution against any of the directors for their proportion, and also a suit at law with equitable remedies against the company or the individual members thereof who are liable therefor, for money so paid for them : *provided*, that no member shall be liable to pay in addition to his premium and deposit more than a sum equal thereto.

Proviso.

Liability of
treasurer.
G.S. 58, § 49.
See sect 39.

SECTION 129. If the treasurer of a mutual company unreasonably neglects to collect an assessment made by order of the directors and to apply the same to the payment of the claims for which it was made, he shall be liable in his private capacity to the party having such claims for the amount of the assessment ; and he may repay himself out of any money afterwards received for the company on account of said assessment.

STOCK AND MUTUAL (COMBINED) COMPANIES.

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STOCK AND MUTUAL (COMBINED) INSURANCE COMPANIES.

SECTION 130. No mutual fire insurance company shall issue policies on any other than the mutual plan of insurance, excepting such companies as have been chartered as stock and mutual companies; and such companies, if doing business in Boston, either directly or through agencies, before issuing policies or transacting any business in the stock department, shall have a guarantee capital of at least one hundred thousand dollars, paid in and invested as required by sections ninety, ninety-one and ninety-two, exclusive of stockholders' notes, (unless such notes are secured by mortgage or by pledges of stock or bonds, as provided in section ninety-one,) and of all debts due from the company, and such proportion of all premiums received in cash for risks not terminated, as would be requisite to re-insure the same. If doing business in any other city or town, the sum of at least fifty thousand dollars shall be paid in and invested in like manner, and be subject to like conditions and restrictions.

SECTION 131. All business and investments on account of the stock department of such companies shall be separately kept, and the returns to the Insurance Commissioner respecting the same shall be according to the form prescribed or authorized for joint-stock insurance companies. The business done on the mutual principle shall also be kept separate, and returns made agreeably to the form prescribed or authorized for mutual fire insurance companies.

SECTION 132. Such combined companies shall not take on any one risk in their stock department a sum exceeding

Guarantee capital required.
How paid in and invested.
G.S. 58, § 56.
See sects. 32, 33.

Business, &c., to be kept separate.
Returns.
G.S. 58, § 56.
See sects. 207, 209, 211.

Limitation of risks.
G.S. 58, § 56.
See sect. 142.

one-tenth of their capital stock ; and when the capital stock is reduced in any way, the amount thereafter to be taken on any one risk shall forthwith be correspondingly reduced to the limitation in section ninety-six, until the capital is restored to its original amount.

Directors,
how chosen.
G.S. 58, § 46.

SECTION 133. One-half of the directors of every mutual fire insurance company with a guarantee capital, shall be chosen from the holders of the guarantee stock, and the other half from the members of the mutual department.

Duties of
secretary.
G.S. 58, § 46.
See sects.
80-85.

SECTION 134. The secretary shall keep a true list of stockholders of the guarantee capital, and of the number of shares held by each, and a record of the transfer of shares.

Special meet-
ings.
G.S. 58, § 46.
8 Gray, 27,
217.
14 Gray, 440.

SECTION 135. Special meetings may be called by the directors when they think proper, and shall be called by them upon the written application of the owners of one-fifth of the guarantee stock, or of twenty members of the mutual department, setting forth the purposes of the meeting.

MUTUAL MARINE, AND MUTUAL FIRE-MARINE, INSURANCE COMPANIES.

SECTION 136. Mutual marine and mutual fire and marine insurance companies, established by the laws of this State, shall be subject to the provisions of sections one hundred, one hundred one, one hundred three, one hundred four and one hundred five, relating to mutual fire insurance companies, and shall before commencing business have an agreement substantially as follows, viz. :

Election and duties of officers.
Special meetings.
G.S. 58, § 35.

“The subscribers, members of the insurance company, severally agree to pay said company on demand the sums set against our names, or such part thereof as may be called in for the use of the company, in money or promissory notes.”

Form of subscription.

SECTION 137. Policies of insurance may be issued by such company when two hundred thousand dollars, if the company is in Boston, or one hundred thousand dollars, if the company is in any other city or town in the State, has been subscribed and paid in cash or notes payable on time not exceeding twelve months: *provided*, that no insurance company chartered after the eighth of June, eighteen hundred and sixty-eight, with authority to effect marine insurance on the mutual principle, shall issue policies until at least one-half of the subscribed capital or safety fund required by law has been paid in in cash; and *provided*, *further*, that no policies shall be issued as aforesaid, until the president and a majority of the directors have certified that the subscribers are known to them, and they believe them solvent and able to pay their subscriptions; and a copy

When policies may issue.
G.S. 58, § 35.
1868, § 17, § 3.

Proviso.

Certificate to be made and filed annually.

of the certificate has been deposited with the Insurance Commissioner and approved by him. Subsequent subscriptions shall be made and certified in like manner; and a like copy shall annually, on or before the first day of November, be filed with the Commissioner. The provisions of law relating to the capital of joint stock insurance companies, shall be applicable to the cash capital of such mutual companies.

Subscriptions, how held and used.
G. S. 58, § 37.

Subscription notes to be paid or renewed.

SECTION 138. The subscriptions provided for in the two preceding sections shall constitute a permanent fund, to be used when necessary for payment of the losses and expenses of the company; but shall not be applied to pay the premiums for insurance effected by the subscribers. The subscription notes as they mature shall be paid in or other notes substituted therefor, so that the amount of the original fund shall not be reduced.

Penalty for false certificate.
G. S. 58, § 37.
See sect. 39.

SECTION 139. If any subscriber fails to pay his subscription, and it is proved that the president or a director knowingly certified falsely in regard to such subscriber, the person certifying shall be liable to the company for such sum as the subscriber fails to pay.

Notes, how cancelled.
Investment.
G. S. 58, § 37.
See sects. 32, 33.

SECTION 140. The subscription notes or any *pro rata* portion thereof may be cancelled whenever the net profits of the business are sufficient to replace the same; and such profits shall then be invested as prescribed in sections ninety-one and ninety-two, thereafter to be held as the permanent fund in place of said notes. All payments made on subscription notes and all cash funds not required for the current uses of the company shall be invested in the same manner.

Who are members.
G. S. 58, § 36.

SECTION 141. Each subscriber during the term of his subscription, and each person insured shall be a member of the company; but persons insured shall not remain members

after the termination of the risk and the payment of the loss, if any thereon.

SECTION 142. No company shall hold on one risk more than ten per cent. of its subscriptions and invested funds, not pledged, and premium notes on risks absolutely terminated, after deducting therefrom all losses and claims for losses, or cash received for risks not terminated, and all debts. Whenever by means of open policies or indorsements thereon more than ten per cent. is so at risk, the directors shall as soon as may be obtain re-insurance for the amount of such excess.

Limitation of risks.
G. S. 58, § 38.
See sects. 96, 132.

Reinsurance.

SECTION 143. If a company is at any time liable for losses beyond the amount of its cash fund, legal investments, premium notes received from risks terminated, and subscription notes, the president and directors, knowing the condition of the company, shall be personally liable for all losses occurring on insurance effected during such state of the company.

Liability of officers for over-insurance.
G. S. 58, § 38.
12 Gray, 355.
See sects. 89, 97.

SECTION 144. The directors shall require the president to make a monthly statement to them of the assets and liabilities of the company; which statement shall be entered upon their records, or in a book kept for that purpose.

Monthly statement.
G. S. 58, § 39.

SECTION 145. Mutual marine insurance companies incorporated in this State which have been in operation not less than twelve months, shall cause an annual dividend statement to be made up in each year, containing a fair estimate of the net profits of the company not before divided, taking into view the probable amount to be paid on all claims, outstanding risks, and demands, against the company, and including expenses, interest, and allowances for previous deficiencies. After ascertaining in this mode the net profits of the year on the risks terminated, the directors may declare a dividend of such profits of a certain per cent. on the pre-

Annual dividend statement.
Net profits to be divided at a certain per cent. on premiums and subscriptions, and scrip to issue.
G. S. 58, § 40.
See sect. 112.

miums received for such terminated risks, and the subscriptions made to the safety fund in that year, and may issue certificates representing said dividend to the persons in whose names the policies of insurance and subscriptions for the year in conformity to the provisions of sections one hundred thirty-six and one hundred thirty-seven were originally made, or to their legal representatives.

Scrip, how
transferable.
Terms of.
G.S. 58, § 40.

SECTION 146. The certificates shall be transferable only on the books of the company, under regulations to be prescribed by the by-laws, and shall contain a provision declaring the same to be subject to future losses and expenses of the company until they are redeemed as hereinafter provided, and subject to be reduced by the directors in case of losses and expenses in any subsequent year exceeding the estimated profits of such year. But such original certificate need not be issued for a less sum than ten dollars. All such sums may be passed to the contingent accounts of the company.

Interest on
scrip.
Redemption
thereof.
G.S. 58, § 41.

SECTION 147. Such companies may pay on the certificates issued in conformity with the preceding sections, from the accrued income of their invested funds, interest not exceeding six per cent. per annum; and whenever the net profits of any such company exceed the sum of two hundred and fifty thousand dollars, the excess may be applied from year to year thereafter to the redemption of the certificates of the previous years in such manner as the directors determine; but no certificates of any year shall be redeemed while certificates of previous years remain unredeemed. When the accumulations of net profits of such company exceed the sum of five hundred thousand dollars, such excess shall be so applied.

Debts over-
due may be
deducted
from scrip.

SECTION 148. When a person entitled to a certificate of profits is indebted to such company for any sum past due,

MUTUAL MARINE AND FIRE-MARINE COMPANIES.

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the company may withhold the certificate and deduct such sum from the amount thereof, and reduce or cancel the same; but persons holding policies of the company or entitled to certificates shall not be answerable by reason thereof, or for anything contained therein, except for the payment of their premium or other notes in advance for premiums.

Policy-holders not liable, &c.
G.S. 58, § 42.

LIFE INSURANCE COMPANIES.

Guarantee
capital.
G.S. 58, § 60.
See sects. 32,
33.

SECTION 149. Before any mutual life insurance company goes into operation, a guarantee capital of one hundred thousand dollars shall be paid in money and invested as required by sections ninety, ninety-one and ninety-two.

Directors,
how chosen.
G.S. 58, § 60.

SECTION 150. The subscribers or holders of guarantee stock in a mutual life insurance company shall choose the first board of directors; at all subsequent elections they shall choose one-half of the directors until the redemption of the guarantee stock, when the insured shall choose the directors.

Annual
meetings.
1870, 349, § 7.

SECTION 151. All members of mutual life insurance companies, incorporated under the laws of this Commonwealth, shall be notified of the time and place of holding the annual meetings of said companies by a written notice or by an imprint upon the back of each policy, receipt or certificate of renewal, in the following form, to wit: "By virtue of this policy the assured is hereby notified that he is a member of the Insurance Company, and that the annual meetings of said company are holden at its home office on the day of in each year, at o'clock, ." The blanks shall be duly filled in making the aforesaid imprint, and the same shall be deemed a sufficient notice as herein provided.

Dividends to
stockhold-
ers.
G.S. 58, § 60.
1870, 349, § 6.

SECTION 152. The stockholders shall be entitled to such annual dividends not exceeding eight per cent., as are agreed upon at the time of subscribing the capital, if the net surplus over a requisite reservation for liabilities and contingencies is sufficient to pay the same; and if less than

the sum originally agreed on, it shall be made equal to it when the profits of the company are sufficient.

SECTION 153. One-quarter of the estimated surplus fund above a sufficient fund to provide for risks, losses, expenses, and dividends, shall be reserved to be appropriated to the redemption of the guarantee stock; and after the expiration of ten years from the organization, when the amount reserved is sufficient and the insured so vote, the guarantee stock may be redeemed.

Redemption
of guarantee
capital.
G.S. 53, § 60.

SECTION 154. At the expiration of every five years, the residue of the estimated surplus fund may be divided among the assured in proportion to the amount of premiums paid by them respectively on account of the risk on their policies for any part or the whole of the preceding five years: *provided*, that any policy on which the premium is payable otherwise than by equal annual payments, shall not be entitled to a larger distribution than if the premium had been so paid.

Surplus,
how may be
divided
among pol-
icy-holders.
G.S. 53, § 60.

Proviso.

SECTION 155. Life insurance companies which do business upon the principle of mutual insurance, or the members of which are entitled to share in the surplus funds thereof, may make distribution of such surplus as they have accumulated, annually, or once in two, three, four or five years, as the directors thereof, from time to time determine. In determining the amount of the surplus to be distributed, there shall be reserved an amount not less than the aggregate net value of all the outstanding policies, said value being computed by the "Combined Experience" or "Actuaries'" rate of mortality, with interest at four per cent.

Distribution
of surplus.
1866, 33, §§
1, 2.

Premium re-
serve.

SECTION 156. Such surplus fund may be distributed among the members of such companies, in proportion to the sums of money which each member has contributed to the entire surplus funds to be distributed among all the mem-

Surplus may
be divided on
the basis of
contribution.
1866, 33, §§
3, 4.

bers, and including in such contribution a just and equitable allowance for interest. Policies which have become payable before the time when such distribution is made, and after the date of the last previous distribution of surplus, may share in the same equitably and proportionally.

Policy for benefit of married woman to whom to inure.
G. S. 58, § 62.
11 Allen, 224

SECTION 157. A policy of insurance on the life of any person, expressed to be for the benefit of any married woman, whether procured by herself, her husband, or any other person, shall inure to her separate use and benefit and that of her children, independently of her husband or his creditors, or the person effecting the same or his creditors.

Trustee may be appointed.

A trustee may be appointed by the party obtaining the policy, or if no such appointment is made, then by the judge of the probate court for the county in which the party for whose benefit said policy is made resides, to hold the interest of the married woman in such policy or the proceeds thereof.

Policy transferred to married woman, &c., to whom to inure.
1864, 197.
11 Allen, 224

SECTION 158. A policy of insurance on the life of any person, duly assigned, transferred or made payable to any married woman, or to any person in trust for her or for her benefit, whether such transfer be made by her husband or other person, shall inure to her separate use and benefit, and that of her children, independently of her husband or his creditors, or of the person effecting or transferring the same or his creditors: *provided, however*, that if the premium on such policy is paid by any person with intent to defraud his creditors, an amount equal to the premium so paid, with interest thereon, shall inure to the benefit of said creditors, subject, however, to the statute of limitations.

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Policy effected by one person for benefit of another, to whom to inure.
G. S. 58, § 62.

SECTION 159. When a policy is effected by any person on his own life or on the life of another, expressed to be for the benefit of such other, or his representatives, or a third person, the person for whose benefit it was made shall be

entitled thereto against the creditors and the representatives of the person effecting the same. If the premium is paid by any person with intent to defraud his creditors, an amount equal to the premium so paid, with interest thereon, shall inure to their benefit.

Not to defraud creditors.

SECTION 160. No policy of insurance on life, issued on or after the tenth day of May, in the year eighteen hundred and sixty-one, by any company chartered by the authority of this Commonwealth, shall be forfeited or become void by the non-payment of premium thereon, any further than regards the right of the party insured therein to have it continued in force beyond a certain period, to be determined as follows, to wit: The net value of the policy, when the premium becomes due and is not paid, shall be ascertained according to the "Combined Experience," or "Actuaries'" rate of mortality, with interest at four per centum per annum. After deducting from such net value any indebtedness to the company or notes held by the company against the insured, which notes if given for premium shall then be cancelled, four-fifths of what remains shall be considered as a net single premium of temporary insurance, and the term for which it will insure shall be determined according to the age of the party at the time of the lapse of premium, and the assumptions of mortality and interest aforesaid.

Policies lapsed by non-payment of premium, to be continued in force.
1861, 186, § 1.
10 Gray, 306.

Term of extended policy how ascertained.

SECTION 161. If the death of the party occur within the term of temporary insurance covered by the value of the policy, as determined in the previous section, and if no condition of the insurance other than the payment of premium has been violated by the insured, the company shall be bound to pay the amount of the policy, the same as if there had been no lapse of premium, anything in the policy to the contrary notwithstanding: *provided, however*, that notice of the claim and proof of the death shall be submitted to the

Policy payable, if death occur within the term, on certain conditions.
1861, 186, § 2.

PROVIDOS.

company within ninety days after the decease; and *provided, also*, that the company shall have the right to deduct from the amount insured in the policy the amount at six per cent. per annum of the premiums that had been forborne at the time of the death.

Corporations, associations, etc., not to insure, &c., except according to laws of the state.

G. S. 58.
1861, 186.
1870, 349, § 5.

SECTION 162. No corporation, association, partnership or individual doing business in this Commonwealth, under any charter, compact or agreement involving an insurance guaranty, contract or pledge for the payment of annuities or endowments, or for the payment of moneys to the families or representatives of policy or certificate holders or members, shall make such insurance, guaranty or contract therein or with any residents of this State, except in accordance with and under the conditions and restrictions of the statutes now or hereafter regulating the business of life insurance: *provided*, that nothing in this section shall be held to conflict with the provisions of chapter one hundred and eighty-six of the acts of eighteen hundred and sixty-one.

Companies subject to certain obligations.

1823, 51, § 2.
G. S. 58, § 61.
4 Gray, 227.

SECTION 163. Every company empowered to make insurance on lives upon land shall be subject to the same obligations for the payment of a certain share of the profits to the Massachusetts General Hospital as are imposed on the Massachusetts Hospital Life Insurance Company.

Not to take fire or marine risks.
G. S. 58, § 65.
See sect. 218.

SECTION 164. No life insurance company shall issue policies insuring fire or marine risks.

[*For provisions relating to valuation of policies, see sections 9 and 204. For other provisions, relating to Life Insurance Companies, see also sections 201, 210, 214 and 215.*]

INSURANCE COMPANIES OF OTHER STATES AND FOREIGN COUNTRIES.

[CONDITIONS OF ADMISSION TO DO BUSINESS IN THIS STATE.]

SECTION 165. No insurance company not incorporated by the legislature of this Commonwealth, and having a specific capital, shall by its agent in this State insure property therein or contract for insurance with any residents in this State, unless its capital stock amounts to one hundred thousand dollars, all of which sum has been paid in cash and invested, exclusive of stockholders' obligations of any description not secured as required in section ninety-one, and the debts of the company ; nor unless the company is restricted by its charter or otherwise from incurring any greater hazard in one risk than one-tenth of its unimpaired capital ; nor unless the company has complied with the laws of this State.

Joint stock companies not to do business in this State, unless, &c. G.S. 58, § 66. 3 Gray, 215. 6 Gray, 73.

See sects. 94, 132, 142, 166.

SECTION 166. It shall not be lawful for any insurance company or association, created by or organized under the laws of any foreign government, other than the States of this Union, or for any partnership, association, firm or individual of such foreign government, or for any agent or agents of such foreign company, association, partnership, firm or individual to make contracts of insurance, or expose such company, association, partnership, firm or individual to loss in this State, in any one risk or hazard to an amount exceeding ten per cent. of the value of the securities deposited by such company, association, partnership, firm or individual with the several insurance, or other departments of the States of this Union, and ten per cent. of the net

Foreign insurance companies not to insure upon one risk more than ten per cent. of the value of securities deposited, &c. G. S. 58, §§ 66-78. 1867, 267. 1868, 317. 1870, 349, §§ 1, 4.

assets in the hands of trustees resident in and citizens of any of the United States, subject at all times to the approval of the Insurance Commissioner of this State, for the general benefit and security of all policy-holders residing in the United States, which shall be immediately available for the payment of losses in this State. Nor shall it be lawful for any such foreign or other insurance company, association, partnership, firm or individual, directly or indirectly, to contract for or effect any re-insurance of any risk on property in this State taken by such company, association, partnership, firm or individual, with any insurance company, association, partnership, firm or individual not authorized to transact the business of insurance in this State in accordance with the laws thereof. Any violation of the provisions of this section shall subject the party guilty thereof to a penalty of five hundred dollars for each violation.

Not to re-insure risk with company, &c., not authorized to do business in this State.

Penalty.

Mutual companies not to do business in this State, unless, &c.
G.S. 58, § 67.
3 Gray, 215.
6 Gray, 73.

SECTION 167. No insurance company not incorporated by the legislature of this Commonwealth, and doing business upon the mutual plan, shall by its agent in this State insure property therein or contract for insurance with any resident thereof, unless said company has one hundred thousand dollars in cash or available cash funds securely invested, and at least one hundred thousand dollars in deposit notes.

To satisfy Insurance Commissioner that they have requisite funds, &c.
G. S. 58, § 67.

SECTION 168. Before any company not incorporated as aforesaid, whether doing business on the stock or mutual plan, transacts by its agents any business in this State, it shall satisfy the Insurance Commissioner that it has the amount of funds required by the laws of this Commonwealth and has complied with all other provisions of the same.

Provisions of general laws extended.
1868, 317, § 1.
See sect. 200.

SECTION 169. The provisions of all general laws which are or may be in force, relating to insurance companies incorporated in other States of the United States, are hereby

extended to all companies, associations and individuals formed or associated in such other States, and doing an insurance business in this State, whether incorporated or not.

[GENERAL AGENT AND ATTORNEY.]

SECTION 170. Every such company shall, before doing business in this State, appoint in writing a citizen thereof, resident therein, a general agent upon whom all lawful processes against the company may be served with like effect as if the company existed in this State; and said writing or power of attorney shall stipulate and agree on the part of the company making the same, that any lawful process against said company which is served on said general agent, shall be of the same legal force and validity as if served on said company. A copy of the writing duly certified and authenticated shall be filed in the office of the Insurance Commissioner, and copies certified by him shall be sufficient evidence. This agency shall be continued while any liability remains outstanding against the company in this State, and the power shall not be revoked until the same power is given to another, and a like copy filed as aforesaid. Service upon such agent shall be deemed sufficient service upon the principal.

Appointment of attorney to accept service of process.
G. S. 58, § 68.
6 Gray, 376.
8 Gray, 206.
10 Gray, 164.
12 Gray, 201.
13 Gray, 90.
10 Allen, 231.
See sects 173, 186.

SECTION 171. The general agent shall, before any insurance is made by such company, give a bond to the Treasurer of the Commonwealth, with one or more sureties to be approved by him, in the sum of two thousand dollars, with condition that he will accept service of all lawful processes against the company in the manner herein before provided.

To give bond.
G. S. 58, § 69.

SECTION 172. The general agent of every such company shall, before any insurance is made, deposit with the Insurance Commissioner a copy of the charter of the company,

To deposit copy of charter and statement.
G. S. 58, § 71.
13 Gray, 90.
See sects 188, 197.

and a statement signed and sworn to by the president and secretary, in the form prescribed or authorized for the annual statement adapted to the business done by such company.

Company neglecting to appoint, not to recover premiums, &c.
G. S. 58, § 72.
3 Gray, 215.
6 Gray, 73,
75, 376.
8 Gray, 206.
1 Allen, 436.
2 Allen, 398.
10 Allen, 231.

SECTION 173. Any such company which neglects to appoint a general agent agreeably to the provisions of section one hundred and seventy, shall not recover any premium or assessment made by it on any contract of insurance with a citizen of this State until such provisions are complied with.

[BROKERS.]

Insurance broker, what constitutes.
1869, 93, § 1.

SECTION 174. Whoever acts or aids in any manner in negotiating contracts of insurance, or placing risks, or effecting insurance, for any person other than himself, receiving compensation therefor, and is not the officer, agent or sub-agent of the company or companies in which such insurance is effected, shall be deemed to be an insurance broker.

Not to act without authority from Insurance Commissioner.
1869, 93, § 2.

SECTION 175. No person shall act as an insurance broker until he has procured a certificate of authority so to act, from the Insurance Commissioner. Such certificate shall authorize the person named therein to negotiate contracts of insurance, or place risks, or effect insurance with any insurance company established in this Commonwealth, or its agents, and with the agents of any insurance company not incorporated in this Commonwealth, which has complied with all of the laws thereof, and is duly authorized to do business therein: *provided*, such agents have duly given bond to make returns and pay taxes, and have complied with all other requirements of said laws. Whoever assumes to act as an insurance broker otherwise than as aforesaid, shall be held to be an insurance agent, and subject to all the duties, requisitions, liabilities and penalties set forth in the laws relating to such agents.

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SECTION 176. The Insurance Commissioner shall grant certificates of authority as aforesaid, which shall continue in force until the first day of April next after the date thereof, and shall be renewed on said day and annually thereafter. For each certificate so granted, and for each renewal thereof, there shall be collected and paid into the treasury of the Commonwealth, the sum of ten dollars.

Limit of authority to act.
1869, 93, § 3.

Fee.

SECTION 177. Whoever violates any of the provisions of this act shall be punished by a fine not exceeding five hundred dollars.

Penalty.
1869, 93, § 4.

[AGENTS.]

SECTION 178. Whoever solicits insurance on behalf of any insurance company not chartered by and not established within this Commonwealth, or transmits for any person other than himself an application for insurance, or a policy of insurance to or from such company, or advertises that he will receive or transmit the same, shall be held to be an agent of such company, to all intents and purposes, and subject to all the duties, requisitions, liabilities and penalties set forth in the laws of this Commonwealth relating to insurance companies not incorporated by the legislature thereof.

Who may be deemed "Agents."
1864, 114, § 1.
5 Gray, 497.
6 Gray, 204.
10 Gray, 131.
13 Gray, 79.
1 Allen, 436.
2 Allen, 1, 569.
3 Allen, 213.
9 Allen, 231.
See sect. 201.

SECTION 179. No person shall, as agent of any fire, marine, or fire and marine insurance company, not incorporated under the laws of this Commonwealth, make or cause to be made any insurance in this Commonwealth, until he has given a bond to the Treasurer of the Commonwealth, with sufficient sureties to be approved by said Treasurer, in the sum of two thousand dollars, with condition that he will pay, as provided by the laws of this State, the taxes imposed by said laws upon all premiums charged or received or collected by him, or under his authority, for the company or companies of which he is the agent. Any person making insur-

Agents of fire, marine, or fire-marine companies, to give bond.
1862, 224, § 10.
See sects. 192-194.

Penalty.

ance, or causing insurance to be made in violation of the provisions of this section, shall be liable to pay a fine not exceeding one thousand dollars.

Agents of other companies also to give bond. G. S. 58, § 69. See sects. 195, 196.

SECTION 180. Every agent of an insurance company not incorporated by the legislature of this Commonwealth and doing business therein, excepting agents of companies included in the provisions of the preceding section, shall, before any business is done by him for said company, give a bond to the Treasurer, with one or more sureties to be approved by him, in the sum of one thousand dollars, with condition that he will on or before the fifteenth day of November in each year make return on oath to the Treasurer of the amounts insured by him, the premiums received, and assessments collected, during the year ending on the thirty-first day of the October preceding, and at the same time pay to the Treasurer the taxes provided by law.

Officers, agents and sub-agents, to procure certificate of authority from the Insurance Commissioner for each company, &c. 1867, 267, § 5.

SECTION 181. No officer, agent or sub-agent of any insurance company not incorporated in this Commonwealth, shall act or aid in any manner in transacting the business of insurance of or with such company, or placing risks or effecting insurance therein, without first procuring from the Insurance Commissioner a certificate of authority so to do, for each company for which he proposes to act, which shall state in substance that such company is duly authorized to do business in this State under the laws thereof, and that such agent or other person has duly complied with the laws relating to the agents of such companies. The Commissioner, upon being satisfied of the facts to be stated therein, shall grant such certificate, which shall continue in force until the first day of April next after the date thereof, unless sooner revoked by the Commissioner for non-compliance with the laws aforesaid, and shall be renewed on said day and annually thereafter, so long as the company and its agents con-

Continuance and renewal thereof.

May be revoked.

tinue to comply with said laws. For such certificate, so Fee.
 granted, and for each renewal thereof, the company named
 therein shall pay into the treasury the sum of two dollars.
 Whoever violates the provisions of this section shall be pun- Penalty.
 ished by a fine not exceeding five hundred dollars for each
 offence.

SECTION 182. Every person acting for an insurance com- Location and
kind of com-
pany, how to
be advertised
to the public.
G. S. 58, § 73.
See sect. 216.
 pany not incorporated in this State shall exhibit in conspicu-
 ous letters on the sign designating his place of business, the
 name of the State under whose authority the company he
 represents has been incorporated. And said company and
 agent shall also have printed in large type the name of such
 State and the kind of office, whether chartered as a mutual
 or stock company, upon all policies issued to citizens of this
 State, on all cards, placards, and pamphlets, and in all adver-
 tisements published, issued or circulated, in this State, by it
 or him, relating to the business of such company.

SECTION 183. No person shall act as agent of an in- Not to act
until laws
are complied
with, nor to
procure in-
surance by
fraud.
G. S. 58, § 74.
See sect. 202.
Penalty.
 surance company not incorporated in this State, until he has
 complied with all the requirements of the laws of this State
 relating to such companies and their agents; and every per-
 son so acting without such compliance, or who knowingly
 procures payment or any obligation for the payment of any
 premium for insurance, by fraudulent representations, shall
 be punished by a fine not exceeding one thousand dollars for
 each offence.

SECTION 184. Every agent of such insurance company Penalty for
neglect to
make re-
turns.
G. S. 58, § 76.
See sects.
179, 180.
 neglecting to make the returns required by law, shall forfeit
 twenty-five dollars for each neglect, to be recovered by the
 Treasurer of the Commonwealth. Every agent so neglect-
 ing shall be immediately notified thereof by the Treasurer:
 and if he continues said neglect for ten days after such
 notice is deposited in the post-office, he shall forfeit five hun-

Proviso.

dred dollars for every such neglect, to be recovered by the Treasurer: *provided*, that no agent shall be held liable if it is made to appear to the satisfaction of the Treasurer that the returns were duly made and deposited by said agent in the post-office, properly directed to the Insurance Commissioner, and that there was no neglect on his part.

Company not complying with law bound by its contracts, but agent liable to fine. G. S. 58, § 72. 3 Gray, 215. 6 Gray, 73. 75, 204, 283, 376.

SECTION 185. If insurance is made by such insurance company without complying with the requisitions of the laws of this State, the contract shall be valid; but the agent making the insurance shall be liable to a fine not exceeding one thousand dollars for each offence.

8 Gray, 206. 1 Allen, 486. 2 Allen, 393. 10 Allen, 281.

Agent personally liable on such contracts. 1864, 114, § 2. See sect. 170.

SECTION 186. The agent of any such insurance company which does not comply with the laws of this Commonwealth as to the appointment of a general agent, the filing of said appointment, and the continuance of such agency, shall be personally liable on all contracts of insurance made by or through him, directly or indirectly, for and in behalf of any such company.

Agent personally liable for taxes if not paid by company. 1864, 114, § 3. See sects. 192-196.

SECTION 187. The agent of any such insurance company which neglects to pay the taxes imposed on such company by the laws of this Commonwealth, shall be personally liable therefor, and the same may be recovered of him in an action of tort in the name of the Commonwealth.

[ANNUAL STATEMENTS.]

When to be filed by companies of other States. Form of. G. S. 58, §§ 25, 71. 1867, 267, §§ 2, 3. See sects. 197, 207-214.

SECTION 188. The general agent of every insurance company chartered or organized in any other State of the United States, and doing business in this Commonwealth, shall, on or before the fifteenth day of January in each year, transmit to the Insurance Commissioner, and file in his office, a statement* of its business, standing and affairs in the form pre-

* The provision of the General Statutes, (chap. 58, § 71,) requiring the publication of a copy of this statement in newspapers in each county in which the company has an agency, is repealed by Acts of 1867, chap. 267, § 7.

COMPANIES OF OTHER STATES AND COUNTRIES.

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scribed or authorized by law and adapted to the business done by such company, signed and sworn to by the president and secretary, and made out for the year ending on the preceding thirty-first day of December.

SECTION 189. All foreign insurance companies, associations, partnerships, firms or individuals, whether incorporated or not, transacting the business of fire, marine or life insurance, or any other kind of insurance, in this State, shall, in the month of November in each year, return full annual statement of their condition and affairs to the Insurance Department, made out at the home office for the preceding calendar year, in the same manner and in the same form, without erasure or addition, (except necessary explanation,) and subject to the same liabilities as similar companies or associations organized under the laws of this State, which statement shall be verified and sworn to before some consul or vice-consul of the United States, by two or more of the principal officers of such insurance companies. Supplementary annual statements of the business and condition of their American branches shall also be filed within the time, and made out for the period required of companies in the United States.

Annual statements, when to be filed by companies of foreign countries. Form of, &c. G S. 58, § 75. 1867, 267, §§ 2, 3. 1870, 349, § 2. See sects. 197, 200, 207-214.

When to be filed by American branches.

SECTION 190. In case of neglect or refusal to make such annual statements as provided in the preceding section, all persons acting in this State as agents, or otherwise, in transacting the business of insurance for said companies, associations, partnerships, firms or individuals, shall be subject to the same penalties provided by law in case of the failure of any insurance company or association, organized under the laws of this State, to make an annual statement as now required by law.

Liability for neglect to make returns. 1870, 349, § 3.

SECTION 191. Any violation of the provisions of the two preceding sections shall subject the party guilty of such vio-

Penalties. 1870, 349, § 4.

lation, to a penalty of five hundred dollars for each violation, to be sued for and recovered in the manner provided for the prosecution and recovery of penalties prescribed by the insurance laws of this State.

[TAXES, FEES, &C.]

Companies of
other States
to pay two
per. cent. on
premiums.
1862, 224, § 2.
See sect. 203.

SECTION 192. Each fire, marine, and fire and marine insurance company incorporated by any other State of the United States, shall annually pay to the Treasurer of the Commonwealth a tax of two per cent. upon all premiums charged or received on contracts made in this Commonwealth for the insurance of property, or received or collected by agents in this Commonwealth.

Companies of
foreign coun-
tries, four
per cent.
1862, 224, § 2.
See sect. 203.

SECTION 193. Each fire, marine, and fire and marine insurance company incorporated or associated under the laws of any government or State other than one of the United States, shall annually pay to the Treasurer of the Commonwealth a tax of four per cent. upon all premiums charged or received on contracts made in this Commonwealth for the insurance of property, or received or collected by agents in this Commonwealth.

Taxes, when
payable.
1862, 224, § 2.
1870, 391, § 1.
See sect. 203.

SECTION 194. The aforesaid taxes shall respectively be assessed by the Treasurer of the Commonwealth for the year ending October thirty-first, and shall be paid within ten days after the first Monday in December, in each year; and no other tax shall be assessed upon such insurance companies so long as the two preceding sections continue in force.

Not liable to
other tax.

Reciprocal
taxes, &c.,
imposed on
companies of
other States.
G. S. 58, § 70.
1870, 391, § 1.

SECTION 195. When, by the laws of any other State, any taxes, fines, penalties, deposits of money, or of securities, or other obligations or prohibitions, are imposed upon insurance companies incorporated or organized under the laws of this State, and transacting business in such other State, or upon the agents of such insurance companies, so long as

such laws continue in force, the same taxes, fines, penalties, deposits and obligations shall be imposed upon all insurance companies doing business in this State which are incorporated or organized under the laws of such other State, and upon their agents.

SECTION 196. Insurance companies transacting business in this State whose charters or other powers are derived from governments or authorities out of the United States, excepting companies included in the provisions of section one hundred ninety-three, shall through their agents in this State, in lieu of the relative taxes herein before indicated, be subject to the payment annually of a tax of one per cent. on all premiums and assessments collected by the agents of such companies.

Companies of foreign countries, excepting, &c., to pay one per cent. on premiums.
G. S. 58, § 70.
See sect. 200.

SECTION 197. Every insurance company not incorporated in this Commonwealth, applying for admission to do business therein, shall pay into the treasury, for filing copy of its charter or deed of settlement, the sum of thirty dollars; for filing statement preliminary to admission, and for filing each annual statement after admission, the sum of twenty dollars.

Fees for filing copy of charter and statements.
1867, 267, § 4.

[MISCELLANEOUS.]

SECTION 198. Whenever, after setting aside a sum equal to the premiums for the unexpired term on existing risks, the cash assets of any fire insurance company not incorporated by the legislature of this Commonwealth and having a specific capital, do not amount to more than three-fourths of its original capital, the company shall, by assessing the stock for the difference, repair its capital to the original amount. No such company shall be permitted to do business in this Commonwealth unless it complies with the provisions of this section.

Capital, when to be repaired. Not to do business, unless, &c.
1865, 249, §§ 7, 10.
See sects. 98, 215.

Liability to
suit and at-
tachment.
G.S. 63, § 15
10 Mass. 91.
16 Pick. 274.
3 Met. 420,
564.
6 Met. 391.
8 Gray, 199.

SECTION 199. Insurance companies created by any other State, having property in this State, shall be liable to be sued and their property shall be subject to attachment in like manner as residents of other States having property in this State are liable to be sued and their property to be attached.

Laws relat-
ing to com-
panies of
foreign coun-
tries, to em-
brace those
not incorpo-
rated.
1867, 267, § 1.
See sect 169.

SECTION 200. The provisions of all general laws relating to insurance companies chartered, incorporated or associated in, or under, the laws of any foreign country, are hereby extended to all companies, associations and individuals formed or associated in foreign countries and doing an insurance business in this State, whether incorporated or not.

GENERAL PROVISIONS RELATING TO ALL INSURANCE COMPANIES DOING BUSINESS IN THIS COMMONWEALTH, WHEREVER CHARTERED OR ORGANIZED.

[AGENTS.]

SECTION 201. Whoever solicits insurance on behalf of any fire or life insurance company, [whether] chartered in this Commonwealth [or elsewhere],* or transmits for any person other than himself, an application for insurance, or a policy of insurance, to or from said company, or advertises that he will receive or transmit the same, shall be held to be an agent of such company to all intents and purposes, and within the meaning of the following section, unless it can be shown that he receives no commission, or other compensation or consideration, for such service, from said company.

Who to be deemed agents.
1861, 170.
5 Gray, 497.
6 Gray, 204.
13 Gray, 79.
1 Allen, 436.
2 Allen, 1, 569.
3 Allen, 213.
9 Allen, 231.
See sect. 178.

SECTION 202. An agent making insurance in violation of any law of this State regulating insurance companies, shall forfeit for each offence a sum not exceeding one thousand dollars.

Penalty for violation of law by agents.
G. S. 58, § 77.

[TAXES AND FEES.]

SECTION 203. Every corporation or association of persons neglecting to pay the taxes imposed by sections forty-three, forty-seven, one hundred ninety-two and one hundred ninety-three, as herein before provided, shall be liable for the same with costs and interest in an action of contract in the name

Companies neglecting to pay taxes, liable to suit and injunction.
1862, 224, § 11.
1870, 391, § 1.
See sects 49, 194.

* This section, so far as it relates to agents of companies not incorporated in this State, is superseded by section 178, page 57, which is a later enactment. The receipt of compensation is not material upon the question of agency in such companies.

of the Commonwealth at the suit of the Treasurer, and shall be further liable, on application of the Treasurer of the Commonwealth therefor to any one of the justices of the supreme judicial court, to injunction restraining said corporation or association and the agents thereof, from the further prosecution of its business until all taxes due as aforesaid with costs and interest are fully paid.

Fee for valuation of life policies.
G. S. 58, § 64.
See sects. 2, 9.

SECTION 204. Every insurance company doing business in this Commonwealth shall annually pay into the treasury of the same, by the way of compensation for the valuation of its policies, one cent on every thousand dollars insured by it on lives.

Fee for certificate of valuation.
1870,349, § 8.
See sects. 2, 9.

SECTION 205. For each certificate of the valuation of the outstanding policies of any insurance company doing business in this Commonwealth, there shall be paid the sum of two dollars, to be collected by the Insurance Commissioner and paid into the treasury.

Fees for copies.
1867,267, § 6.

SECTION 206. For each copy of a paper filed in the office of the Insurance Commissioner there shall be paid at the rate of twelve cents a page, and for certifying the same the sum of one dollar. Said fees shall be collected by the Commissioner and paid into the treasury.

[ANNUAL STATEMENTS.]

Form for joint stock companies.
G. S. 53, A.
See sect. 211.

SECTION 207. The form of annual statement for insurance companies with specific capitals, shall be as follows:

1. State the name of the company.
2. Where located.
3. When incorporated.
4. Amount of capital.
5. Amount of capital actually paid in.
6. Number of shares and par value of each.
7. Amount of fire risks outstanding.
8. Amount of marine risks outstanding.
9. Total amount of outstanding risks.
10. Amount of United States stock or treasury notes owned by the company; state amount of each kind, and par value and

market value of each. 11. Amount of State stocks; state amount of each kind, and par value and market value of each. 12. Amount of bank stocks; state amount of each kind, and par value and market value of each. 13. Amount of railroad stocks; state amount of each kind, and par value and market value of each. 14. Amount of railroad bonds; state amount of each kind, and par value and market value of each. 15. Cash value of real estate owned by the company. 16. Amount of cash on hand. 17. Amount of cash in hands of agents. 18. Amount loaned on mortgage of real estate. 19. Amount loaned on collateral. 20. Amount loaned without collateral. 21. Amount of all other investments. 22. Amount of premium notes on risks terminated. 23. Amount of borrowed money, specifying collaterals given for the same. 24. Amount of losses due and unpaid. 25. Amount of losses claimed and unpaid. 26. Amount of losses reported, upon which the liability of the company is not determined. 27. Amount of all other claims against the company. 28. Amount of cash received for premiums on fire risks. 29. Amount of cash received for premiums on marine risks. 30. Amount of notes received for premiums on fire risks. 31. Amount of notes received for premiums on marine risks. 32. Amount of cash received for interest. 33. Amount of income received from all other sources. 34. Amount of fire losses paid last year. 35. Amount of marine losses paid last year. 36. Amount of dividends paid the last year. 37. Amount paid for expenses of office. 38. Amount of other expenditures. 39. Amount received in cash for fire risks not terminated. 40. Amount required to re-insure all outstanding risks. 41. Amount of premium notes on risks not terminated. 42. Amount of delinquent notes not charged to profit and loss. 43. Highest rate of interest received. 44. Highest rate of interest paid on money borrowed. 45. How many shares of the capital stock are pledged to the company. 46. Balance to credit of profit and loss account. 47. Balance to debit of profit and loss account. 48. How many shares of the capital stock are owned by the company, or not subscribed for. 49. What amount of the capital consists of the stockholders' notes.

SECTION 208. The form for mutual marine, and mutual fire and marine insurance companies, shall be as follows :

Form for
mutual ma-
rine, and
mutual fire-

marine com-
panies
G. S. 53, B.
1860, 1866, § 1.
See sect. 211.

1. Name or title of the company. 2. Where located. 3. When incorporated. 4. For what period. 5. Amount invested in United States funded debt, with the amount of each kind owned; state par value and market value, per share. 6. Amount of United States treasury notes owned; state par value and market value, per share. 7. Amount invested in State stocks, with the amount of each kind owned; state par value and market value per share. 8. Number of shares owned in each bank which are not pledged; state par value and market value, per share. 9. Number of shares owned in each railroad; amount invested in each, at cost on books; state par value and market value, per share. 10. Amount received in railroad bonds, and amount of each kind, at cost on books; state par value and market value, per share. 11. Amount invested in real estate, as it stands on the books of the company. 12. State specifically all other investments or property. 13. Cash on hand. 14. Cash in hands of agents. 15. Amount loaned on mortgage of real estate. 16. Amount loaned on notes secured by collaterals of personal property. 17. Amount loaned on notes without collateral security. 18. Amount of stock notes on hand not overdue. 19. Amount of stock notes on hand that are past due. 20. Amount of premium notes on risks terminated. 21. Amount of premium notes on risks not terminated. 22. Amount of delinquent premium notes not charged to profit and loss. 23. Amount of scrip issued for profits which remains outstanding. 24. Amount of debts due the company other than those before enumerated: state particularly their respective amounts and origin. 25. Amount of marine risks not terminated. 26. Amount of fire risks not terminated. 27. Amount received in cash for fire risks not terminated. 28. State the highest rate of interest received. 29. Amount received for interest. 30. State the highest rate of interest paid for money borrowed. 31. Amount paid for interest. 32. State the amount borrowed which remains unpaid, and state particularly the collateral given for each loan. 33. Amount of fire losses paid the past year. 34. Amount of marine losses paid the past year. 35. Amount of losses ascertained and unpaid. 36. Amount of losses claimed other than those ascertained and unpaid. 37. Amount of expenses, taxes, and commissions, paid the past year.

SECTION 209. The form for mutual fire insurance companies shall be as follows. All companies having policies in separate classes, shall in their answers specify the respective amounts in each class.

Form for
mutual fire
companies.
G. S. 58, C.
1860, 156, § 1.
1862, 181, § 6.
See sect. 211.
6 Gray, 73.

1. Name of company. 2. Where located. 3. When incorporated. 4. Date of commencement of business. 5. Amount insured by existing policies. 6. Amount of premiums and deposits on same. 7. Amount of premiums on same received in cash. 8. Amount of United States and State stocks or notes; state par value and market value of each. 9. Amount of bank stocks, railroad stocks and bonds; state number of shares in each bank and railroad company, and par value and market value of each. 10. Cost value of real estate owned by the company. 11. Amount loaned on mortgage of real estate. 12. Amount of other investments. 13. Cash on hand and in bank. 14. Cash in hands of agents. 15. Amount of assessments regarded good, due and not paid. 16. Amount of losses ascertained and unpaid. 17. Amount of other losses claimed. 18. Amount owed for borrowed money, and on what securities. 19. Amount owing for dividends on expired policies. 20. Amount and particulars of all other liabilities. 21. Estimated amount in cash required to re-insure all outstanding risks. 22. Amount of policies terminated the past year. 23. Amount of policies issued the past year. 24. Amount of premiums received in cash the past year. 25. Amount of premiums received in notes the past year. 26. Amount received on assessments the past year. 27. Amount received for interest, including dividends on stocks and all other revenue on investments, the last year. 28. Amount of losses paid the last year. 29. Amount of cash dividends paid to policy-holders the past year. 30. Amount paid in cash as return premiums on policies cancelled the past year. 31. Amount for expenses, taxes and commissions. 32. State the gain or loss in investment account arising from changes in market values of securities the past year. 33. Amount assessed the last year. 34. Amount of liability to future assessment. 35. Highest rate of interest paid. 36. Highest rate of interest received. 37. Amount insured on real estate. 38. Amount insured on personal estate. 39. What proportion of the property insured is in Massachusetts? 40. What proportion of the losses was on property in Massachusetts?

Form for life
insurance
companies.
G. S. 53, D.
1860, 156, § 2.
See sect. 211.

SECTION 210. The form for life insurance companies shall be as follows :

1. Name of the company. 2. When chartered. 3. For what period. 4. Where located. 5. State in full the assets of the company. 6. Number of shares owned in each bank ; state par value and market value, per share. 7. Number of shares owned in each railroad, stating the corporate name of each, and amount invested in each, at cost, on books ; state par value and market value, per share. 8. Amount owned in railroad bonds ; state par value and market value, per share. 9. Amount invested in real estate, at cost, on the books of the company. 10. Amount loaned on mortgages of real estate. 11. Amount loaned on notes secured by collaterals of personal property. 12. Amount loaned on notes without collaterals. 13. State in full all other investments. 14. How much included in the foregoing statements of assets consists of premium notes on policies not returned as now in force ? 15. Number, date, and amount of each outstanding policy not heretofore returned, and age of the insured. 16. Number, date, and amount, of each policy which has within the year ceased to be in force, how terminated, what has been paid to the legal holder of the policy, and age of the insured. 17. Amount of losses ascertained and unpaid. 18. Amount of losses claimed against the company, whether acknowledged as due or not by the company. 19. Amount due from the company on its declared, promised, or acknowledged indebtedness or other claims, including dividends, bonuses on distribution of surplus, or as profits. 20. Amount received for premiums the past year. 21. Amount received for premiums in cash. 22. Amounts received for premiums in promissory notes or securities. 23. Amount received for interest the past year. 24. Amount paid for interest the past year. 25. Amount of guarantee funds ; and state particularly whether the same are in cash or subscription notes. 26. How are dividends, distributions of surplus funds, bonuses or estimated profits paid, whether in cash, scrip, or otherwise on credit, and whether on demand, or if on credit, for what length of time, and whether payable at a specific time or indefinitely at the discretion of the company. 27. Amount paid for expenses, taxes and commissions, the past year.

SECTION 211. The Insurance Commissioner is hereby authorized to amend and revise the forms of annual statement herein before prescribed, and to propose such additional inquiries as are necessary to elicit a full exhibit of the business and standing of the various insurance companies doing business in this Commonwealth.

Commissioner may revise, &c., foregoing forms.
1867, 267, § 3.

SECTION 212. The time herein before prescribed for filing annual statements, may be extended by the Commissioner in favor of any company for good cause shown, but not beyond the first day of the month next after the date herein before specified for filing the same.

May extend time for filing statements.
1867, 267, § 2.
See sects. 61, 188, 189.

SECTION 213. Any company doing business in this State, neglecting to make returns in the manner and within the time herein before authorized and prescribed, shall forfeit one hundred dollars for each day's neglect; and every company that wilfully makes false statements shall be liable to a fine of not less than five hundred nor more than one thousand dollars. Any new business done by any company or its agents in this State after neglect to make the prescribed returns, shall be deemed to be done in violation of law.

Penalty for neglect to make returns.
G. S. 55, § 28.
1867, 267, § 3.
6 Gray, 73.
False returns.

SECTION 214. The Insurance Commissioner shall have authority to prevent the publication of any part of the annual statements of the life insurance companies, until such time as the annual report of said Commissioner is made to the legislature.

Commissioner may withhold statements of life companies.
1864, 220, § 1.

[MISCELLANEOUS.]

SECTION 215. When the actual funds of any life insurance company doing business in this Commonwealth are not of a net cash value equal to its liabilities, counting (as such) the net value of its policies according to the "Combined Experience," or "Actuaries'" rate of mortality, with inter-

Life insurance companies not to issue policies while the premium reserve is impaired.
1863, 143.
See sects. 98, 198.

est at four per centum per annum, it shall be the duty of the Insurance Commissioner to give notice to such company and its agents, to discontinue issuing new policies within this Commonwealth until such time as its funds have become equal to its liabilities, valuing its policies as aforesaid. Any officer or agent who, after such notice has been given, issues a new policy from and on behalf of such company before its funds have become equal to its liabilities as aforesaid, shall forfeit for each offence a sum not exceeding one thousand dollars.

Penalty.

Companies to conduct business in corporate name only. Policies. G. S. 58, § 24. See sect. 182.

SECTION 216. Every insurance company doing business in this State shall conduct the same in the proper and corporate name of said company, and not by various and different names. The policies and contracts of insurance issued by any company shall be headed or entitled only by the corporate name or title of said company.

Conditions of insurance to be stated in body of policy. 1861, 152. 1864, 196, § 1. 7 Allen, 42, 132.

SECTION 217. In all insurance against loss by fire by companies chartered or doing business in this Commonwealth, the conditions of the insurance shall be stated in the body of the policy, and neither the application of the insured nor the by-laws of the company shall be considered as a warranty or a part of the contract, except so far as they are incorporated in full into the policy, and so appear on its face, before the signatures of the officers of the company.

Term of policy. G. S. 58, § 24. 1861, 189, § 1. See sect. 38.

SECTION 218. No policy shall be issued for a term exceeding seven years. But this section shall not apply to life insurance companies.

Insurance companies not to trade, &c., except. G. S. 58, § 23.

SECTION 219. No insurance company shall deal or trade in buying or selling goods, wares, merchandise, or other like property, excepting such articles as have been insured by such company, on which losses are claimed by the insured.

MISCELLANEOUS PROVISIONS.

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SECTION 220. The governor and council may allow such reasonable compensation for services rendered and expenses incurred in enforcing the laws relating to insurance companies as they deem proper.

Provision for
cost of en-
forcing laws.
G. S. 58, § 77.

PREVENTION OF FRAUDS ON INSURANCE COMPANIES.

Burning,
with intent
to injure
insurer, how
punished.
G. S. 161, § 7.

SECTION 221. Whoever wilfully burns a building or any goods, wares, merchandise, or other chattels, which are at the time insured against loss or damage by fire, with intent to injure the insurer, whether such person is the owner of the property burnt or not, shall be punished by imprisonment in the State prison not exceeding twenty years.

Destroying
vessels to
defraud in-
surer, how
punished.
G. S. 161, §
76.

SECTION 222. Whoever wilfully casts away, burns, sinks or otherwise destroys a ship or vessel with intent to injure or defraud an insurer of such ship or vessel, or of any property laden on board the same, or of any part thereof, shall be punished by imprisonment in the State prison for life or any term of years.

Fitting out
vessels with
intent to
defraud in-
surer, how
punished.
G. S. 161, §
77.

SECTION 223. Whoever lades, equips or fits out, or assists in lading, equipping or fitting out, a ship or vessel, with intent that the same shall be wilfully cast away, burnt, sunk or otherwise destroyed, to injure or defraud an insurer of such ship or vessel, or of any property laden on board the same, shall be punished by imprisonment in the State prison not exceeding twenty years, or fine not exceeding five thousand dollars and imprisonment in the jail not exceeding three years.

Making or
procuring
false invoice,
with intent,
&c., how
punished.
G. S. 161, §
78.

SECTION 224. If the owner of a ship or vessel, or of property laden or pretended to be laden on board the same, or if any other person concerned in the lading or fitting out of a ship or vessel, makes out or exhibits, or causes to be made out or exhibited, a false or fraudulent invoice, bill of lading, bill of parcels, or other false estimates, of any goods or property laden, or pretended to be laden, on board such

ship or vessel, with intent to injure or defraud an insurer of such ship, vessel, or property, or of any part thereof, he shall be punished by imprisonment in the State prison not exceeding ten years, or by fine not exceeding five thousand dollars and imprisonment in the jail not exceeding two years.

SECTION 225. If a master, other officer, or mariner, of a ship or vessel, makes, or causes to be made, or swears to, any false affidavit or protest, or if an owner or other person concerned in such ship or vessel, or in the goods or property laden on board the same, procures any such false affidavit or protest to be made, or exhibits the same, with intent to injure, deceive, or defraud an insurer of such ship or vessel, or of any goods or property laden on board the same, he shall be punished by imprisonment in the State prison not exceeding ten years, or by fine not exceeding five thousand dollars and imprisonment in the jail not exceeding two years.

Making or
procuring
false protest,
with intent,
&c., how
punished.
G. S. 161, §
79.

INQUESTS IN CASES OF FIRE.

Jury to be
summoned
upon com-
plaint and
certificate.
1867, 303 § 1.

SECTION 226. When property is destroyed by fire, and a complaint, within thirty days thereafter, is subscribed and sworn to by any person before any police court, or any municipal court, or any trial justice, alleging that reasonable grounds exist for believing that the fire was caused by design, and a majority of the mayor and aldermen or selectmen of the city or town respectively in which said property is situated certify in writing, that in their opinion the same is a proper case for investigation, such court or justice shall forthwith issue a warrant to a constable of the place where the property was destroyed, requiring him forthwith to summon six good and lawful men of the county to appear before the court, or justice, at a time and place expressed in the warrant, to inquire when and by what means the fire originated ; which warrant shall be served and returned in the manner prescribed in section three of chapter one hundred and seventy-five of the General Statutes ; and the constables and jurors shall be subject to the penalties therein specified for similar neglects. If any person so summoned does not appear, the constable shall by order of the justice or court, return some person from the by-standers to complete the number.

Warrant,
how served.

Oath of
jurors.
1867, 303, § 2.

SECTION 227. The justice or court shall in view of the spot on which the property was destroyed administer to the persons thus summoned or returned the following oath : " You solemnly swear, that you will diligently inquire and true presentment make, on behalf of this Commonwealth, when and by what means the fire which has here occurred

was caused, and that you will return a true inquest according to your knowledge and such evidence as shall be laid before you. So help you, God."

SECTION 228. The justice or court may issue subpoenas for witnesses returnable forthwith at a time and place therein set forth. Their attendance may be enforced in like manner as if they had been subpoenaed in behalf of the Commonwealth.

Witnesses.
1867,303, § 3.

SECTION 229. An oath to the following effect shall be administered to such witnesses: "You solemnly swear, that the evidence which you shall give to the inquest, concerning the origin of the fire of which inquiry is now to be made, shall be the truth, the whole truth, and nothing but the truth. So help you, God."

Oath of witnesses.
1867,303, § 4.

SECTION 230. The testimony shall be reduced to writing by the presiding justice, or some person by his direction, and subscribed by the witnesses.

Testimony,
how taken.
1867,303, § 5.

SECTION 231. The jury, after hearing the testimony and making all needful inquiry, shall draw up and deliver to the justice or court their inquisition under their hands, in which they shall find and certify when and by what means the fire was caused; and said inquisition and testimony thus subscribed shall within one week thereafter, be filed by the magistrate with the clerk of the courts for the county, or in the county of Suffolk with the clerk of the municipal court.

Verdict of jury.
1867,303, § 6.

SECTION 232. The fees of the magistrate and the expenses of the inquisition, shall be the same, and be returned, audited, certified and paid in like manner as is provided for coroners' inquests.

Costs.
1867,303, § 7.
G. S. 175, § 15.

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